



825 NE Multnomah Street, Suite 2000
Portland, Oregon 97232

March 14, 2024

VIA ELECTRONIC FILING

Public Utility Commission of Oregon
Attn: Filing Center
201 High Street SE, Suite 100
Salem, OR 97301-3398

Re: UE 420—PacifiCorp's Notice of Petition for Judicial Review

PacifiCorp d/b/a/ Pacific Power submits for filing in the above referenced docket a copy of the Petition for Judicial Review of Public Utility Commission of Oregon Order No. 23-404 filed with the Oregon Court of Appeals on March 14, 2024.

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew McVee".

Matthew McVee
Vice President, Regulatory Policy and Operations

Enclosure

IN THE COURT OF APPEALS OF THE STATE OF OREGON

PACIFICORP, dba PACIFIC POWER,
Petitioner,

v.

PUBLIC UTILITY COMMISSION OF
OREGON,
Respondents.

and

ALLIANCE OF WESTERN ENERGY
CONSUMERS (AWEC), CALPINE
SOLUTIONS, LLC, THE KLAMATH
WATER USERS ASSOCIATION
(KWUA), THE OREGON CITIZENS'
UTILITY BOARD (CUB), SIERRA
CLUB, AND VITESSE, LLC,

Intervenors-Respondents.

Public Utility Commission of Oregon
Docket No. UE 420

CA Case No. _____

**PETITION FOR JUDICIAL
REVIEW OF ORDER OF THE
PUBLIC UTILITY COMMISSION
OF OREGON**

Petitioner seeks judicial review of the Public Utility Commission of Oregon's Order No. 24-013 and Order No. 23-404, dated January 17, 2024, and October 27, 2023, respectively, in Docket No. UE 420. In Order No. 24-013 the Public Utility Commission of Oregon ("Commission") denied reconsideration of Order No. 23-404. In Order No. 23-404, the Commission denied PacifiCorp's request to recover costs associated with compliance with a State of Washington statute called the Climate Commitment Act ("CCA"),

which imposes costs on generation of electricity at PacifiCorp's gas-fired generation plant in Chehalis, Washington. PacifiCorp serves customers in Oregon with electricity from the Chehalis facility, and it incurs costs to generate that electricity pursuant to the CCA. Pursuant to Order No. 24-013 and Order No. 23-404, PacifiCorp will not be able to recover those CCA costs. Copies of the Orders are attached.

This petition for judicial review is timely filed because it was filed within 60 days of Order No. 24-013, which denied the application for reconsideration of Order No. 23-404. ORS 183.482, ORS 756.515, ORS 756.610.

The parties to this proceeding before the Court of Appeals are:

Petitioner:

PacifiCorp
825 NE Multnomah Street, Suite 2000
Portland, OR 97232

Respondent:

Public Utility Commission of Oregon
201 High Street SE, Suite 100
Salem, OR 97301

Intervenor-Respondents:

Alliance of Western Energy Consumers
818 SW 3rd Avenue, #266
Portland, OR 97204

Calpine Solutions, LLC
401 West A Street, Suite 500
San Diego, CA 92101

Klamath Water Users Association
2312 South Sixth Street, Suite A
Klamath Falls, OR 97601

The Oregon Citizens' Utility Board
610 SW Broadway, Suite 400
Portland, OR 97205

Sierra Club
2101 Webster Street, Suite 1300
Oakland, CA 94612

Vitesse, LLC
1 Hacker Way
Menlo Park, CA 94025

Petitioner PacifiCorp is represented by:

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Respondent Public Utility Commission of Oregon is represented by:

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Petitioner seeks review of the Public Utility Commission’s Order No. 23-404 in Commission Docket No. UE 420. In Order No. 23-404, the Commission concluded that the costs of the State of Washington CCA “should be situs assigned under the MSP.” In that sentence, the reference to “MSP” means the 2020 Inter-Jurisdictional Cost Allocation Protocol (“2020 Protocol”), under which PacifiCorp and the regulatory agencies in the six states in which PacifiCorp operates (including the Commission for Oregon) agreed to the protocols and formulas for allocating PacifiCorp’s costs for providing electricity to its customers in those states. Under the 2020 Protocol, “situs assigned” means, in reference to a specific cost, that the specific cost at issue should not be allocated to multiple states but instead should be recovered by PacifiCorp from customers only in the state (or states) that impose that specific cost. Because the Commission concluded that the State of Washington CCA

costs should be situs assigned, PacifiCorp is precluded from recovering those costs from its Oregon customers who receive that electricity.

Petitioner was a party to the proceedings in Docket No. UE 420.

Pursuant to ORS 183.482(8)(a), (b), and (c), Petitioner requests that the Court of Appeals reverse Public Utility Commission Order Nos. 23-404 and 24-013, because the orders rely on erroneous interpretations of law, are outside the range of discretion delegated to the agency by law, and/or are not supported by substantial evidence in the record.

Petitioner has made an initial determination, below, of what record should be included for this petition for judicial review. Petitioner is willing to confer with the Respondents to further shorten the record to eliminate unnecessary or irrelevant material.

Petitioner will stipulate that the agency record may be shortened to eliminate unnecessary or irrelevant material and designates below these portions of the record to be transmitted to the Court of Appeals. Petitioner will confer with Respondents to determine whether the record can be further shortened to eliminate additional materials, including Highly Confidential sections of some of the materials listed below where the sections concern solely

issues not included in this Petition for Judicial Review, *e.g.*, coal contract information.

Further, Petitioner designates only the transcript from the September 7, 2023 hearing (*see* September 13, 2023, Transcript entry on the table below). The transcript of the September 8, 2023, hearing is not part of the record for this petition for judicial review.

For any document to transmit to the Court of Appeals for the record that contains information designated as Highly Confidential under the Modified Protective Order that the Commission entered in UE 420, PacifiCorp designates the version of that document with the Highly Confidential information redacted. To be clear, PacifiCorp does not designate, and the Commission should not transmit to the Court of Appeals, unredacted Highly Confidential information.

For any document to transmit to the Court of Appeals for the record that contains information designated as Confidential under the Modified Protective Order that the Commission entered in UE 420, PacifiCorp designates that the version of the document with the Confidential information redacted be transmitted for the Court of Appeals public version of the record, and that the version of the document with the Confidential information unredacted be transmitted and marked pursuant to ORAP 4.20(4) and ORAP 3.07(1)(a), with

the caveat that any Highly Confidential information in such document should still be redacted even in the version transmitted and marked pursuant to ORAP 4.20(4) and ORAP 3.07(1)(a). There are some documents which have Confidential information under the Modified Protective Order where PacifiCorp may agree that only the redacted version needs to be transmitted to the Court of Appeals and that the unredacted versions with the Confidential information do not need to be transmitted. PacifiCorp will confer with the Commission to address these issues.

Date	Filing Party of Agency¹	Description²
3/28/2023	PacifiCorp	Motion for Modified Protective Order, Expedited Consideration Requested.
3/28/2023	ALJ Mapes	Motion for Modified Protective Order Granted. Modified Protective Order No. 23-120 signed by ALJ Katharine Mapes.
4/3/2023	PacifiCorp	*** In the Matter of PACIFICORP, dba PACIFIC POWER, 2024 Transition Adjustment Mechanism

¹“AWEC”: Alliance of Western Energy Consumers

“OPUC Staff”: Oregon Public Utility Commission Staff

“KWUA”: The Klamath Water Users Association

“CUB”: Citizens’ Utility Board

² “***” indicates that the record for this entry contains information designated Confidential and/or Highly Confidential under the Modified Protective Order that the Commission entered in this docket.

Date	Filing Party of Agency¹	Description²
4/3/2023	PacifiCorp	*** Direct Testimony and Exhibits of Ramon Mitchell (PAC/100-106, Mitchell) and Judith Ridenour (PAC/300-303, Ridenour).
4/13/2023	ALJ Mapes	Notice of Prehearing Conference.
4/24/2023	Parties	Proposed TAM Schedule
4/24/2023	ALJ Mapes	Issues Prehearing Conference Memorandum. Notice of Contested Case Rights and Procedures attached
6/2/2023	PacifiCorp	List of TAM Corrections or Omissions
6/13/2023	ALJ Mapes	Motion For Amended Modified Protective Order Granted. Amended Modified Protective Order No. 23-211.
6/23/2023	Vitesse	Opening Testimony and Exhibits of Steve Johnson (Vitesse/100-102, Johnson)
6/23/2023	AWEC	Opening Testimony and Exhibits of Bradley Mullins (AWEC/100-105, Mullins)
6/23/2023	CUB	Opening Testimony and Exhibit of Bob Jenks (CUB/100-101, Jenks)
7/24/2023	PacifiCorp	Reply Testimony and Exhibits of Ramon J. Mitchell (PAC/400-404, Mitchell). NOTE: The James Owen testimony (PAC/500-502) is not designated. It can be excluded.
8/3/2023	ALJ Mapes	Memorandum on Hearing Procedures
8/16/2023	CUB	Rebuttal Testimony of Bob Jenks (CUB/200, Jenks).
8/16/2023	OPUC Staff	*** Staff's Rebuttal Testimony and Exhibits of Anna Kim (Staff/700-701, Kim), Julie Jent (Staff/800, Jent), Cutis Dlouhy (Staff/900, Dlouhy), Rose Anderson (Staff/1000-1001, Anderson), Madison Bolton (Staff/1100, Bolton), and Itayi Chipanera (Staff/1200, Chipanera)
8/16/2023	AWEC	*** Rebuttal Testimony and Exhibits of Bradley G. Mullins (AWEC/200-203, Mullins)

Date	Filing Party of Agency¹	Description²
8/16/2023	Vitesse	*** Rebuttal Testimony and Exhibit of Steve Johnson (Vitesse/200-201, Johnson)
8/24/2023	ALJ Mapes	Notice Of Hearing.
8/24/2023	ALJ Mapes	Notice Of Hearing.
8/30/2023	PacifiCorp	*** Surrebuttal Testimony and Exhibits of Ramon Mitchell (PAC/800, Mitchell), Matthew McVee (PAC/1000, McVee), Ryan Fuller (PAC/1100-1104, Fuller), and Michael Wilding (PAC/1200-1201, Wilding) NOTE: The James Owen testimony (PAC/900-902) is not designated. It can be excluded.
8/31/2023	OPUC Staff	Errata to Rebuttal Testimony (Staff/100, Anderson/17)
9/1/2023	PacifiCorp	Cross-Examination Statement and Motion for Leave to Present Live Testimony
9/1/2023	OPUC Staff	Cross-examination Statement
9/1/2023	ALJ Mapes	Memorandum
9/1/2023	PacifiCorp	*** Exhibit List and Cross-Examination Exhibits
9/1/2023	Vitesse	Cross-examination Statement
9/1/2023	AWEC	Cross-examination Statement
9/1/2023	PacifiCorp	Motion to Admit Pre-filed Testimony and Exhibits, together with Witness Declarations of Ramon J. Mitchell, James Owen, Judith M. Ridenour, Zepure Shahumyan, Matthew D. McVee, Ryan Fuller, and Michael G. Wilding.
9/1/2023	OPUC Staff	Cross-examination Exhibit
9/1/2023	OPUC Staff	Staff's Amended Cross-Examination Statement and Response to PacifiCorp Request to Submit Live Direct Testimony
9/5/2023	AWEC	Motion to Admit Testimony and Exhibits, together with Declaration of Bradley Mullins
9/5/2023	OPUC Staff	Motion to Admit Testimony and Exhibits, together with Declarations of Anna Kim,

Date	Filing Party of Agency¹	Description²
		Julie Jent, Curtis Dlouhy, Rose Anderson, Madison Bolton, and Itayi Chipanera
9/5/2023	Vitesse	Motion to Admit Pre-filed Testimony and Exhibit, together with Declaration of Steven Johnson
9/5/2023	ALJ Mapes	Ruling and Memorandum: Motion Granted and Live Testimony Accepted; Testimony and Cross-Examination Schedule Adopted
9/6/2023	PacifiCorp	Supplemental Cross Examination Exhibit
9/8/2023	ALJ Mapes	Scheduling Memorandum
9/13/2023	Transcriber	Transcript for the 9/7/23 Hearing. Please contact transcriber Jenny Muir for transcript at: Jennifer Muir, CET Certified Digital Legal Transcriber 541-207-7412 jmuirtranscriber@gmail.com www.CourtScriptsllc.com ONLY 9/7/23 transcript designated. 9/8/23 transcript NOT designated.
9/22/2023	Vitesse	Letter regarding Opening Brief
9/22/2023	PacifiCorp	*** Opening Brief
9/22/2023	AWEC	Opening Brief
9/22/2023	OPUC Staff	Opening Brief
10/2/2023	PacifiCorp	Reply Brief
10/2/2023	OPUC Staff	Reply Brief
10/2/2023	AWEC	Reply Brief
10/3/2023	ALJ Mapes	Bench Request
10/10/2023	PacifiCorp	Motion to Admit Testimony and Exhibits, together with Declarations of Ramon J. Mitchell and Matthew D. McVee
10/10/2023	PacifiCorp	Email from Ajay Kumar stating there will not be cross-examination and a hearing will not be necessary
10/11/2023	Vitesse	Declaration of Steve Johnson in Support of Joint Testimony

Date	Filing Party of Agency¹	Description²
10/12/2023	PacifiCorp	Response to ALJ Bench Request No. 1
10/16/2023	OPUC Staff	Declaration of Anna Kim
10/18/2023	CUB	Motion to Admit Testimony and Exhibit, together with the Declaration of Bob Jenks
10/23/2023	ALJ Mapes	Ruling: Stipulation, Testimony, and Exhibits Admitted; Official Notice Taken; Record Closed
10/27/2023	Commission	*** Order No. 23-404: Stipulation Adopted; Recovery Of Certain Costs Denied
11/8/2023	PacifiCorp	Compliance per Order No. 23-404, Net Power Cost Indicative Update for 2024
11/9/2023	ALJ Mapes	Issues Notice
11/14/2023	Commission	Errata Order No. 23-433
11/15/2023	PacifiCorp	Advice No. 23-021 in Compliance with Order No. 23-404.
12/22/2023	OPUC Staff	Report for the December 28, 2023 Public Meeting (Item No. CA 22)
12/22/2023	PacifiCorp	Motion for Reconsideration
12/26/2023	OPUC Staff	Memo to file recommending acknowledgement letter be sent
12/26/2023	ALJ Moser	Letter sent
12/26/2023	OPUC Staff	Proof of service of letter 12/26/2023
12/29/2023	ALJ Mapes	Memorandum re Motion for Reconsideration briefing schedule

1/12/2024	OPUC Staff	Response to PacifiCorp's Motion for Reconsideration
1/12/2024	AWEC	Response to PacifiCorp Motion for Reconsideration
1/17/2024	Commission	Order No. 24-013. Motion For Reconsideration Denied.

DATED: March 14, 2024. MARKOWITZ HERBOLD PC

/s/ Dallas DeLuca

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**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UE 420

In the Matter of

PACIFICORP, dba PACIFIC POWER,
2024 Transition Adjustment Mechanism.

ORDER

DISPOSITION: MOTION FOR RECONSIDERATION DENIED

On December 22, 2023, PacifiCorp, dba Pacific Power, filed a motion for reconsideration of Order No. 23-404. That motion for reconsideration is denied.

Made, entered, and effective Jan 17 2024.

Megan W. Decker

Megan W. Decker
Chair

Letha Tawney

Letha Tawney
Commissioner



A party may appeal this order by filing a petition for review with the Court of Appeals in compliance with ORS 183.480 through 183.484.

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UE 420

In the Matter of

PACIFICORP, dba PACIFIC POWER,

2024 Transition Adjustment Mechanism

ORDER

DISPOSITION: STIPULATION ADOPTED; RECOVERY OF CERTAIN COSTS
DENIED

I. SUMMARY

In this order, we adopt a contested Stipulation that resolves most issues among the parties regarding PacifiCorp, dba Pacific Power's 2024 Transition Adjustment Mechanism. We adopt the parties' agreement to decrease PacifiCorp's filed TAM by \$18.8 million, \$5.5 million of which is attributable to removal of costs attributable to the Ozone Transport Rule and \$13 million of which is an unspecified black box reduction. We are not persuaded by arguments opposing the Stipulation and find that this falls within the range of just and reasonable rates.

In addition, two contested issues remained that were not covered by the Stipulation—costs related to compliance with the Washington Climate Commitment Act (CCA) and certain coal issues raised by Sierra Club. We disallow the Washington CCA costs as a state-specific initiative that is properly allocated to Washington under PacifiCorp's Multi-State Process. We do not order any adjustments related to Sierra Club's coal issues.

II. BACKGROUND AND PROCEDURAL HISTORY

On April 3, 2023, PacifiCorp filed its 2024 Transition Adjustment Mechanism and associated documents. PacifiCorp stated that its proposed change in net power costs would affect approximately 652,000 customers and result in an overall annual increase of approximately \$163.8 million or 9.5 percent. Residential customers using 900 kilowatt-hours would see an average monthly bill increase of \$9.58 per month were the change to go into effect. The Company states that there are four main drivers of the increase:

- 1) Power, natural gas, and coal prices for calendar year 2023 have increased by an average of 31 percent, 20 percent, and 12 percent respectively.
- 2) The TAM now includes the impact of the Washington Cap and Invest program and the Ozone Transport Rule.
- 3) The hedges in the 2023 TAM were favorable to the current calendar year 2023 prices from the official forward price curve used in this filing.
- 4) The calendar year 2023 Oregon load projections used to calculate the 2023 TAM net power costs were substantially lower than the current calendar year 2023 load projections.¹

Numerous parties intervened in this proceeding, namely the Alliance of Western Energy Consumers (AWEC), Calpine Solutions, LLC, the Klamath Water Users Association (KWUA), the Oregon Citizens' Utility Board (CUB), Sierra Club, and Vitesse. The intervenors in this proceeding, as well as Staff of the Oregon Public Utility Commission, filed their opening testimony on June 23, 2023. PacifiCorp filed its reply testimony on July 24, 2023; rebuttal testimony was filed on August 16, 2023; and PacifiCorp's surrebuttal was filed on August 30, 2023.

On September 7, 2023, prior to the start of the evidentiary hearing in this proceeding, the parties informed the Administrative Law Judge that a number of parties had reached a Partial Stipulation covering most, but not all, of the issues in the case. The parties then proceeded to have an abbreviated evidentiary hearing on September 7, 2023, and September 8, 2023, while scheduling an additional evidentiary hearing on the opposed Partial Stipulation. PacifiCorp filed the Partial Stipulation as well as a supporting brief on September 12, 2023.

III. THE STIPULATION

The Stipulation resolves all issues in the proceeding except: (1) the coal modeling issues raised by Sierra Club; and (2) issues related to compliance with the Washington Climate Commitment Act. It was joined by PacifiCorp, Staff, CUB, Calpine, KWUA, and Vitesse. Sierra Club and AWEC did not join the Stipulation and AWEC opposes it.

The Stipulation agrees to an \$18.5 million decrease to net power costs on an Oregon-allocated basis. Of the decrease, \$5.5 million is attributable to removal of costs related to compliance with the Ozone Transport Rule. The remaining \$13 million is an unspecified black box reduction. This results in a baseline net power costs of \$703.6 million Oregon-allocated, and an overall rate increase of \$112.3 million, subject to the final update. That is a 6.5 percent increase, down from 9.5 percent in the initial filing.

¹ PAC/100, Mitchell/7-8

In the Stipulation, PacifiCorp agrees to hold workshops to discuss the modeling, inputs, and forecasting of the following topics, including how these topics are modeled in Aurora:

- a. Coal contracting;
- b. Coal dispatch;
- c. Day-ahead and Real-time (DA/RT) Adjustment;
- d. Wind forecasting;
- e. Short-term transmission; and
- f. Extended Day-Ahead Market/EIM.

It also agrees to provide certain information in the 2023 Power Cost Adjustment Mechanism (PCAM) regarding the operation of PacifiCorp's coal facilities. In particular, PacifiCorp will provide information regarding the forecasted and actual generation per plant, coal consumed per plant, and price of coal consumed for the month at each plant. It will also provide an explanation for variances in forecasted generation greater than 10 percent from the forecast on a monthly and annual basis.

The Stipulation also provides that if the combined January 1, 2024, rate increases from the 2024 TAM, 2022 PCAM, and any other rate change exceeds 15 percent, PacifiCorp will seek to delay the rate effective date of revised Schedule 206, the PCAM tariff, until April 1, 2024.

The Stipulation addresses the DA/RT adjustment in calculating the transition charge, stating that PacifiCorp will apply the adjustment for market prices used for valuing changes in generation for months when the net change in the Company's generation is a reduction of generation attributable to direct access. For other months, PacifiCorp will not apply the market adjustment to the net generation increase but will value it at cost.

IV. APPLICABLE LAW

ORS 757.210 establishes the applicable standard and burden of proof. It provides that, in a rate case, "the utility shall bear the burden of showing that the rate or schedule of rates proposed to be established or increased or changed is fair, just and reasonable." Thus, PacifiCorp must submit evidence showing that its proposed rates, including the terms and conditions of service, are just and reasonable. The Commission must also determine that stipulations result in just and reasonable rates; the parties to that stipulation have the burden of making that demonstration.

V. OPPOSITION TO THE STIPULATION

A. Positions of the Parties

AWEC opposes the Stipulation, arguing that the Stipulating Parties have failed to meet their burden to demonstrate that the terms of the Stipulation are just and reasonable. In particular, AWEC points to a change that PacifiCorp made to its DA/RT modeling in its reply testimony that it characterized as a correction. That change was purportedly to remove unsupported artificial arbitrage revenue from the DA/RT volume component and increased net power costs by \$61 million, company-wide. AWEC takes issue with the characterization of this change as a correction and states that the TAM Guidelines are clear that methodological changes in a stand-alone TAM filing are only allowed in the Initial Filing. AWEC points as well to Staff's Rebuttal Testimony where it characterizes the change as a "*change* to the modeling that should not have been labeled as a correction."²

AWEC states that the value of this issue to Oregon ratepayers is approximately \$17.5 million, and thus that it "overwhelms the 'unspecified' adjustment of \$13 million" in the Stipulation.³ AWEC continues that the give and take process in settlement "does not obviate the requirement of the Stipulating Parties' obligation to 'present evidence that the stipulation is in accord with the public interest, and results in just and reasonable rates.'"⁴

AWEC also cites Staff's opposition to using PacifiCorp's "average of the averages" method to identify proposed market caps within the Aurora modeling system, which Staff Witness Dlouhy opposed in his testimony. AWEC states that "at best, the value of the market cap modeling approach is included within the \$13 million 'unspecified monetary adjustment' though this inclusion would further dilute any value received for the DA/RT modeling change discussed above. At worst, Staff abandoned its advocacy for this Commission-approved modeling method entirely."⁵

The settling parties filed testimony arguing that black box settlements are a legitimate way to resolve contested cases and that the Commission reviews settlements on a holistic basis to determine whether they result in a just and reasonable rate and are in the public interest. Accordingly, the Commission "need not evaluate each individual adjustment, theory, or methodology proposed by the parties, but may review the reasonableness of the overall rates, recognizing that a stipulation may represent a compromise of different

² Staff/800, Jent/8 (emphasis in original).

³ AWEC Response to Stipulating Parties Joint Brief at 10.

⁴ *Id.* at 10 (quoting Order No. 22-129 at 17).

⁵ *Id.* at 11.

positions.”⁶ In this case, they argue, there is voluminous evidence in the record to support the overall reasonableness of the rates that was filed over the course of this proceeding. The fact that the \$13 million disallowance falls in the middle of the range of outcomes supported by parties in this proceeding it is “both reasonable and supported by substantial evidence.”⁷

B. Resolution

We find that the Stipulation is supported by substantial evidence and will result in just and reasonable rates and therefore we approve it. We agree with the stipulating parties that we have never required a demonstration that each individual rate component contained within a black box settlement is just and reasonable. As we stated in one such case:

When considering a stipulation, we have the statutory duty to make an independent judgment as to whether any given settlement constitutes a reasonable resolution of the issues. We have recognized, however, that issues in a general rate case typically reflect judgments along a continuum of outcomes and can rarely be reduced to one ‘right’ number in any cost category. When considering a stipulation, therefore, we may evaluate the validity of the rates based on the reasonableness of the overall rates, not the theories or methodologies used or individual decisions made.⁸

Indeed, black box stipulations are commonly employed as a means to resolve proceedings before the Commission, including in numerous past TAM proceedings.⁹

Here, the stipulating parties agreed to a black box reduction of \$13 million. Staff had quantified its adjustments in this proceeding as \$31 million and supports the Stipulation as “within the scale of what Staff proposed.”¹⁰ The largest Staff adjustment—and one with which AWEC takes particular issue not being included in the Stipulation in its entirety—is \$21.7 million related to a modeling change (Staff and intervenors’ view) or

⁶ *In the Matter of PacifiCorp, dba Pacific Power, 2012 Transition Adjustment Mechanism*, Docket No. UE 227, Order No. 11-435 at 3 (Nov. 4, 2011) (internal citations omitted).

⁷ Joint Stipulation Parties/100, McVee, Mitchell, Kim, Jenks, Higgins, Johnson/5.

⁸ *In the Matter of PacifiCorp, dba Pacific Power, Request for a General Rate Revision*, Docket No. UE 210, Order No. 10-022 at 6 (Jan 26, 2010) (internal citations omitted).

⁹ See *In the Matter of PacifiCorp, dba Pacific Power, 2019 Transition Adjustment Mechanism*, Docket No. UE 339, Order No. 18-421 at 1, Appendix A at 3 (Oct. 26, 2018) (\$11.8 million unspecified adjustment); *In the Matter of PacifiCorp, dba Pacific Power, 2020 Transition Adjustment Mechanism*, Docket No. UE 356, Order No. 19-351 at 3 (Oct. 30, 2019) (\$4.9 million unspecified monetary adjustment); *In the Matter of PacifiCorp, dba Pacific Power, 2021 Transition Adjustment Mechanism*, Docket No. UE 375, Order No. 20-392 at 2 (Oct. 30, 2020) (\$2.25 million unspecified monetary adjustment); *In the Matter of PacifiCorp, dba Pacific Power, 2023 Transition Adjustment Mechanism*, Docket No. UE 400, Order No. 22-389 at 3 (Oct. 25, 2022) (\$4.9 million unspecified monetary adjustment).

¹⁰ Joint Stipulating Parties/100, McVee, Mitchell, Kim, Jenks, Higgins, Johnson/11.

an error correction (PacifiCorp's view) in PacifiCorp's reply testimony. In AWEC's view, this is a straightforward violation of the TAM guidelines which prohibit modeling changes in updates.

Staff testifies that the resolution of this issue, as well as the next largest issue regarding the method for establishing market caps, "would not have been decided on the appropriate application of well-established ratemaking principles, but on subjective questions of interpretation the Commission would have the discretion to resolve either way."¹¹ AWEC itself notes that the TAM guidelines do not define what constitutes a "modeling change" versus a "correction."¹² And PacifiCorp submitted testimony in this case maintaining that it was a correction because the model was functioning erroneously prior to the change.¹³ It also noted that "the entirety of the Company's NPC forecast is a model so almost any correction can be considered a change to the model relative to the Initial Filing."¹⁴

Given this testimony and given our holistic review of the rates at issue, we find the \$13 million black box reduction, combined with the \$5.5 million reduction to account for removal of the Ozone Transport Rule costs, results in rates within the range of just and reasonable rates and therefore we approve the Stipulation. We note as well that PacifiCorp has agreed to host workshops on a variety of issues where some intervenors filed testimony stating more information would be useful before the Commission reaches a precedential decision, which will aid us in determining whether rates are in the range of just and reasonable rates going forward. Accordingly, the Stipulation is approved.

VI. CONTESTED ISSUES

There are two issues that are not addressed in the Stipulation. The first is the question of how to handle costs related to compliance with the Washington Climate Commitment Act. The second is resolution of Sierra Club's proposals related to the Jim Bridger coal plant.

A. Washington Climate Commitment Act Costs

The Washington Climate Commitment Act (CCA) establishes regulatory requirements to reduce greenhouse gas (GHG) emissions from generating plants in Washington. One component of the CCA, the Cap and Invest Program, "caps" emissions in the state of

¹¹ Joint Stipulation Parties/100, McVee, Mitchell, Kim, Jenks, Higgins, Johnson/12.

¹² AWEC Brief in Opposition at 3.

¹³ PAC/800, Mitchell/22-23 (stating "[a] calculation that is designed to simulate *costs* associated with real-world trading *inefficiencies* but which produces substantial (\$97 million) and unrealistic *revenue* is clearly producing an erroneous result.").

¹⁴ PAC/800, Mitchell/23. This testimony also notes a correction PacifiCorp included in its Reply Update that constituted a modeling change to more accurately reflect "thermal generation marginal costs" and which decreased net power costs by \$75 million company-wide.

Washington. The Washington Department of Ecology (Ecology) then distributes emissions allowances to entities that, like PacifiCorp, are subject to the Clean Energy Transformation Act (CETA); a compliance instrument like an allowance is required for every metric ton of carbon dioxide a facility emits.

PacifiCorp owns and operates the natural gas Chehalis generating facility, which emits substantial amounts of carbon dioxide and for which it is required to retire allowances. The Company also receives no-cost allowances from Ecology, which it has been directed by Ecology to allocate only to Washington state retail customers. Therefore, Oregon customers are paying for the costs of complying with the Washington CCA but not receiving a share of the allowances that Washington customers receive to mitigate the costs of that compliance.

1. Positions of the Parties

Both Staff and AWEC object to inclusion of PacifiCorp's CCA compliance costs in Oregon rates, arguing that PacifiCorp should not be able to recover the costs of compliance with the CCA when it is receiving allowances that are only allocated to Washington customers. AWEC argues that this constitutes a violation of the dormant commerce clause of the Constitution. Staff argues that PacifiCorp is violating the Multi-State Process (MSP) that the Commission has approved to govern cost-allocation between PacifiCorp's different jurisdictions.

AWEC argues that consistent with the dormant commerce clause of the Constitution, courts have held that states may generally not adopt or enforce laws that discriminate against out-of-state entities on their face, in their purpose, or in their practical effect, or which place a significant burden on interstate commerce that is "clearly excessive in relation to putative local benefits."¹⁵ AWEC argues that the CCA is "facially discriminatory in that it explicitly favors in-state interests over out-of-state interests by providing free allowances to PacifiCorp for in-state emissions associated with its Washington retail load but allocates no free allowances for in-state emissions associated with retail load of other jurisdictions."¹⁶

PacifiCorp argues that dormant commerce clause claims are not properly before the Commission. PacifiCorp argues that Oregon administrative agencies can determine the constitutionality of statutes that they are charged with enforcing; but that they should not consider the constitutionality of statutes from another state that they have no jurisdiction over. PacifiCorp also states that this issue is already ripe for resolution in a Washington federal court.¹⁷ AWEC, however, argues that this is relevant to ratemaking because

¹⁵ *Rocky Mountain Farmers Union v. Corey*, 730 F3d 1070, 1087 (9th Cir 2013).

¹⁶ AWEC Opening Br. at 4.

¹⁷ *Invenergy Thermal LLC v. Watson*, Case No. 3:22-cv-5967-BHS, Complaint at 4-5 (WD Wash Dec. 13, 2022).

PacifiCorp itself should have challenged the constitutionality of Ecology's decision regarding allocation of the no-cost allowances instead of attempting to recover costs from Oregon customers in rates.

Meanwhile, Staff argues that PacifiCorp's recovery of costs from Oregon customers violates the MSP, and specifically that the Washington CCA is a state-specific initiative that must be recovered by Washington customers alone. Staff points to Section 3.1.2.1 of the MSP, which states:

State-Specific Initiatives: Resources acquired in accordance with a State-specific initiative will be allocated and assigned on a situs basis to the State adopting the initiative. State-specific initiatives include, but are not limited to, the costs and benefits of incentive programs, net-metering tariffs, feed-in tariffs, capacity standard programs, solar subscription programs, electric vehicle programs, and the acquisition of renewable energy certificates.

PacifiCorp argues that the CCA is actually a tax or that it constitutes generation-dispatch costs, both of which are properly allocated to all states that benefit from the generation in question. It cites the example of a tax on wind generation imposed by Wyoming, which Staff agrees is properly allocated among states receiving that wind power. In general, PacifiCorp cites to a variety of programs in its states, including Oregon, that are allocated across state lines, including the California Cap and Trade program that is in many ways similar to Washington's program. Further, PacifiCorp argues that Oregon ratepayers are benefitting from the Chehalis plant and therefore should pay the costs of operating it, which includes the costs of complying with the Washington CCA.

2. Resolution

We agree with Staff that the costs of the Washington CCA should be situs assigned under the MSP. PacifiCorp's argument to the contrary is overly formalistic—it argues that Staff improperly conflates CETA, a portfolio standard, with the CCA, not a portfolio standard. PacifiCorp does not address the interplay between the two statutes, and that interplay makes clear that the costs in question should be situs assigned.

PacifiCorp's testimony describes the operation of the CCA and CETA at some length. The CCA sets emissions targets (*e.g.*, 95 percent below 1990 levels by 2050) and establishes an annually decreasing cap until that level is reached. Entities can buy, sell, and trade allowances with permitted CCA emissions that fall under the cap. The CCA

also calls for distribution of no-cost allowances specifically to utilities subject to CETA, like PacifiCorp.¹⁸

The CCA requires that the Company demonstrate compliance by retiring GHG allowances for any GHG emissions from generators within the state, even when the energy is exported outside of Washington. For PacifiCorp, the only thermal generator within Washington is the Chehalis gas plant. Ecology has been clear that the allowances PacifiCorp receives for Chehalis must be distributed to Washington retail load alone. It stated that, “the plain language of the law and legislative intent is clear that the concept of cost burden relates to how the costs associated with covered emissions are passed on to customers in the State of Washington.”¹⁹ It continues that it recognizes the complication associated with protocols for regulated utilities serving multiple states, and that “[i]t is expected that those protocols will be applied through the existing means in the rule language, and that a Washington-specific allocation is possible.”²⁰

Moreover, the state has been specific about the link between CETA and the CCA. In federal district court litigation concerning the CCA, Ecology discussed the link between CETA and the CCA and the reasoning behind distributing no-cost allowances for the benefits of Washington retail customers:

[T]he Clean Energy Transformation Act (CETA), requires utilities serving Washington customers to reduce their greenhouse gas emissions to neutral by 2030 and to zero by 2045. Critically, these requirements do not apply to generation for out-of-state customers. Thus, the function of the no cost allowances in the Climate Commitment Act is to avoid double-charging Washington customers for the costs of the energy transition to non-emitting generation.²¹

As Staff points out in its brief, the provision of cost-free allowances phases out over time and sunsets in 2045, the same year that CETA requires Washington electric utilities to have phased out fossil fuel generators from their portfolios.²²

In short, while portions of the CCA might, if they existed in isolation, constitute a tax or could be characterized as generation-dispatch costs, the program viewed as a whole goes beyond this by providing cost-free allowances to Washington retail customers alone

¹⁸ WAC 173-446-230(2)(a)-(b).

¹⁹ State of Washington, Dep’t. of Ecology, Publication 22-02-046, *Concise Explanatory Statement*, Chapter 173- 446 WAC Climate Commitment Act Program, (Sept. 2022), available at: <https://apps.ecology.wa.gov/publications/documents/2202046.pdf>.

²⁰ *Id.*

²¹ *Invenergy Thermal LLC, and Grays Harbor Energy LLC v. Laura Watson*, in her official capacity as Director of the Washington State Department of Ecology, Defendant, (“*Invenergy v. Ecology*”) Defendant’s Motion to Dismiss, (Feb. 16, 2023), Western District of Washington Case No. 3:22-cv-05967

²² RCW 70A.65.120(2)(d); RCW 19.405.010(2).

during the path to full CETA compliance in 2045. The end result is a program that implements a state-specific initiative by creating portfolio standards under CETA and then distributing allowances to CETA-obligated utilities under the CCA. The MSP is designed to isolate state-specific electricity policy costs like this one. The fact that Ecology itself stated in federal court that the purpose of the no-cost allowances was to avoid double-counting under CETA makes the connection to the portfolio standards particularly clear.

We understand the position that this conclusion puts PacifiCorp in; and the Company was given guidance by Ecology stating that the no-cost allowances must be allocated only to Washington customers. Accordingly, PacifiCorp is faced with conflicting instructions about cost allocation. However, that does not mean that it becomes appropriate to charge Oregon retail customers for those costs instead. The remedy for this issue falls in the Washington legislature, in the courts, or in the MSP process.

Because we agree with Staff that the costs of CCA compliance from which the interaction with CETA shields Washington customers should be situs-assigned under the MSP, we do not need to decide the merits of AWEC's dormant commerce clause argument.

B. Sierra Club Coal Issues

The Jim Bridger coal plant is located in Wyoming. PacifiCorp files a Long Term Fuel Supply Plan for Jim Bridger with the Commission every two years, with its IRP. Sierra Club takes issue with the fuel supply plan that accompanied PacifiCorp's latest IRP, which is at issue in this proceeding, and with PacifiCorp's selection of a preferred operating scenario in that plan.

1. *Positions of the Parties*

Sierra Club argues that PacifiCorp should: (1) be directed to adopt Scenario 4 of its Long-Term Fuel Supply Plan as its Preferred Scenario instead of Scenarios 5 and 6; and (2) be directed to update its Long-Term Fuel Supply Plan every year instead of every other year.

As to the first, PacifiCorp's examined six scenarios, concluding that Scenarios 5 and 6 were functionally equivalent:

[BEGIN HIGHLY CONFIDENTIAL INFORMATION]

[REDACTED]

[REDACTED]

[END HIGHLY CONFIDENTIAL INFORMATION]

Sierra Club argues that PacifiCorp’s analysis of the preferred scenarios contains significant errors and that it does not properly minimize Oregon’s reliance on high-cost Bridger coal. In particular, Sierra Club argues that PacifiCorp has independent incentives to avoid accelerated closure of the Bridger mine that could ultimately lead to Jim Bridger closing early due to the potential to make capital investments in the plant on which it can earn a return. It also argues that the cost differences between Scenarios 4 and 5/6 are *de minimis* after considering the flaws in PacifiCorp’s analysis that Sierra Club presented in its testimony, including inclusion of 2023 costs in the 2024 TAM, include unsupported cost assumptions that do not align with previous cost assumptions, and an unexplained increase in “other generation” in Scenarios 5/6 over Scenario 4.

Finally, Sierra Club notes that a significant amount of the differential between Scenarios 5/6 and Scenario 4 are post-2024 benefits, which it believes should be given reduced weight when the prudence of the 2023 TAM is considered. Ultimately, when only 2024 benefits are taken into account, Sierra Club argues that the differential between Scenarios 5/6 and Scenario 4 is entirely attributable to increased wholesale sales. Sierra Club notes that these sales may not materialize. Sierra Club thus “questions the prudence of encouraging PacifiCorp to produce more coal generation for off-system sales when Oregon is seeking to curb its own greenhouse gas emissions and eliminate coal from rates.”²³

As to the second issue, Sierra Club argues that yearly updates are needed to the Long-Term Fuel Supply Plan due to the volatile and changing conditions in the energy markets and the fact that “a prudent utility continuously evaluates whether its current investments make the most economic sense for ratepayers.”²⁴

PacifiCorp opposes both recommendations. First, it argues that it properly included 2023 costs in its analysis since that was the first year of the planning horizon and that that contributes a minimal amount to the difference between scenarios. Second, it argues that the difference in “other generation” is due to **[BEGIN HIGHLY CONFIDENTIAL INFORMATION]** [REDACTED]

²³ Sierra Club Opening Brief at 10.

²⁴ *Id.* at 11.

[REDACTED] **[END HIGHLY CONFIDENTIAL INFORMATION]** Finally, it argues that Sierra Club’s other arguments about the cost differential between scenarios are speculative and unsupported.

PacifiCorp also opposes filing an annual fuel plan, stating that it would be impractical to prepare an annual plan given that the plan covers multiple years and requires large-scale analysis. It also says that it is reasonable to time the fuel plans with the IRP because the IRP relies on data developed for the fuel plan, and the fuel plan relies upon the resource mix in the preferred portfolio from the IRP filing.

2. *Resolution*

We are not persuaded that PacifiCorp should be ordered to adopt Scenario 4 instead of Scenarios 5/6. First, we do not consider the cost differential between the two scenarios to be *de minimis*. While Sierra Club did point to potential errors in PacifiCorp’s cost analysis, we find that PacifiCorp generally had satisfactory answers regarding the discrepancies—or that they were not of a magnitude to change the relative cost effectiveness of Scenario 4 vs. Scenarios 5/6. For example, Sierra Club points to a decrease in the cost of BCC incremental coal in 2027 and 2028. PacifiCorp explains that

[BEGIN HIGHLY CONFIDENTIAL INFORMATION] [REDACTED]
[REDACTED] **[END HIGHLY CONFIDENTIAL INFORMATION]** Separately, Sierra Club points to the fact that Scenarios 5/6 have higher “other” generation totals than Scenario 4, even though Jim Bridger is also operating more in Scenarios 5/6. PacifiCorp explains that this is related to its use of its coal stockpile. At any rate, Sierra Club does not quantify the magnitude of the error and it is not clear to us that it is sufficient to significantly narrow the gap between Scenario 4 and Scenarios 5/6.

Second, we believe PacifiCorp reasonably explained at hearing the need for more flexibility. In Scenarios 5/6, the Bridger mine will **[BEGIN HIGHLY CONFIDENTIAL INFORMATION]** [REDACTED]
[REDACTED] **[END HIGHLY CONFIDENTIAL INFORMATION]**. This increase in flexibility is an appropriate way to handle operations. To be clear, **[BEGIN HIGHLY CONFIDENTIAL INFORMATION]** [REDACTED]
[REDACTED] **[END HIGHLY CONFIDENTIAL INFORMATION]** The benefit of having an owned mine with no minimum take is to allow PacifiCorp the flexibility to respond to market conditions, and we expect

PacifiCorp to take advantage of that flexibility as appropriate given its reclamation obligations.

Finally, Sierra Club argues that the Jim Bridger Long Term Fuel Plan should be filed annually rather than biannually. We disagree that conditions are so volatile as to require annual updates and instead direct PacifiCorp to continue filing the biannual Long Term Fuel Plan with its IRP—that is, at the front end of the IRP process.

VII. ORDER

1. The Stipulation between PacifiCorp, dba Pacific Power; Staff of the Public Utility Commission of Oregon; the Oregon Citizens' Utility Board; Calpine Energy Solutions, LLC; Klamath Water Users Association; and Vitesse, LLC, attached as Appendix A, is adopted.
2. Advice No. 23-008 is permanently suspended.
3. PacifiCorp, dba Pacific Power, must update its net power costs to reflect the changes adopted in this order to establish its Transition Adjustment Mechanism net power costs for calendar year 2024 and file its tariffs to be effective January 1, 2024.

Made, entered, and effective Oct 27, 2023.



Megan W. Decker
Chair



Letha Tawney
Commissioner



A party may request rehearing or reconsideration of this order under ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-001-0720. A copy of the request must also be served on each party to the proceedings as provided in OAR 860-001-0180(2). A party may appeal this order by filing a petition for review with the Court of Appeals in compliance with ORS 183.480 through 183.484.

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UE 420

In the Matter of
PACIFICORP, d/b/a PACIFIC POWER,
2024 Transition Adjustment Mechanism

STIPULATION

1 The TAM is an annual filing by PacifiCorp d/b/a Pacific Power (PacifiCorp or
2 Company) to update its net power costs (NPC) in rates and set the transition adjustments
3 for direct access customers. This Stipulation resolves all issues in the 2024 Transition
4 Adjustment Mechanism (TAM) among the stipulating parties, with one exception: the
5 treatment of Washington Cap and Invest program costs in the 2024 TAM.

PARTIES

6
7 1. The parties to this Stipulation are PacifiCorp, Staff of the Public Utility
8 Commission of Oregon (Commission) (Staff), the Oregon Citizens’ Utility Board (CUB),
9 Calpine Energy Solutions, LLC (Calpine Solutions), Klamath Water Users Association
10 (KWUA), and Vitesse, LLC (Vitesse) (collectively, the Stipulating Parties). Sierra Club
11 and the Alliance of Western Energy Consumers (AWEC) are not parties to this
12 Stipulation.¹

¹ Sierra Club proposed several coal-related adjustments in the 2024 TAM. Non-Company Stipulating Parties do not take a position on Sierra Club’s coal recommendations.

1

BACKGROUND

2 2. On April 3, 2023, PacifiCorp filed its 2024 TAM with direct testimony and
3 exhibits from Ramon Mitchell, James Owen, and Judith Ridenour. PacifiCorp also filed
4 revised tariff sheets for Schedule 201 to implement the 2024 TAM.

5 3. PacifiCorp's 2024 TAM filing proposed updates to NPC in rates and test
6 period forecasts for: (1) incremental benefits related to the Company's participation in the
7 energy imbalance market (EIM); and (2) renewable energy production tax credits (PTC).

8 4. PacifiCorp's April 3, 2023 TAM filing (Initial Filing) reflected total-
9 company NPC for the test period (the 12 months ending December 31, 2024) of
10 approximately \$2.642 billion. NPC in the Initial Filing were approximately \$754.7
11 million on an Oregon-allocated basis. This amount was approximately \$255.1 million
12 higher than the \$499.6 million Oregon-allocated NPC from the Final Update in the 2023
13 TAM (Docket No. UE 400), and \$163.8 million higher when adjusted for forecasted load
14 changes and PTCs. The Initial Filing reflected an overall average rate increase of
15 approximately 9.5 percent.

16 5. On April 4, 2023, AWEC filed to intervene in this proceeding. On April 6,
17 2023, Calpine Solutions filed a petition to intervene. On April 11, 2023, Sierra Club filed
18 a petition to intervene. On April 12, 2023, CUB filed a Notice of Intervention. On April
19 21, 2023, Vitesse filed a petition to intervene. On May 5, 2023, KWUA filed a petition to
20 intervene. On April 24, 2023, Administrative Law Judge Katharine Mapes held a
21 prehearing conference and subsequently issued a Prehearing Conference Memorandum
22 granting certain requested interventions and adopting a procedural schedule.

1 Administrative Law Judge Katharine Mapes also issued rulings on April 17, 2023 and
2 May 11, 2023 granting the other requested interventions.

3 6. On June 23, 2023, Staff, AWEC, CUB, Sierra Club, Vitesse, and Calpine
4 Solutions filed opening testimony.

5 7. On July 24, 2023, PacifiCorp filed reply testimony from Ramon Mitchell,
6 James Owen, Zepure Shahumyan, and Matthew McVee, along with an updated NPC
7 forecast (Reply Update). The Reply Update reflected total-company NPC for the test
8 period (the 12 months ending December 31, 2024) of approximately \$2.527 billion. On an
9 Oregon-allocated basis, NPC in the Reply Update were approximately \$722.1 million.
10 This amount was approximately \$222.5 million higher than the \$499.6 million Oregon
11 allocated NPC from the 2023 TAM Final Update, and \$130.8 million higher when
12 adjusted for forecasted load changes and PTCs.

13 8. On August 16, 2023, Staff and intervenors filed rebuttal testimony. Two
14 weeks later, on August 30, 2023, PacifiCorp filed surrebuttal testimony from Ramon
15 Mitchell, James Owen, Matthew McVee, Ryan Fuller, and Michael Wilding. In that
16 testimony, the Company indicated that it would remove costs associated with the Ozone
17 Transport Rule (OTR) from the 2024 TAM, for a \$19 million decrease in total company
18 NPC, or \$5.5 million in Oregon-allocated NPC.

19 9. The parties convened settlement conferences on August 11, 21, and 28,
20 2023. All parties initially engaged in the settlement discussions, although AWEC and
21 Sierra Club ultimately ceased their participation. At a final settlement conference on
22 September 6, 2023, the Stipulating Parties reached a settlement in principle that resolved
23 all issues among the Stipulating Parties, except the treatment of Washington Cap and

1 Invest program costs. The Stipulating Parties informed the Commission of this settlement
2 at the start of the hearing in this case on September 7, 2023.

3 10. The settlement establishes baseline 2024 NPC in rates, subject to the Final
4 Update. The terms of the settlement are captured in this Stipulation.

5 **AGREEMENT**

6 11. Overall Agreement: The Stipulating Parties agree to submit this
7 Stipulation to the Commission and request that the Commission approve the Stipulation as
8 presented. The Stipulating Parties agree that the rate change resulting from the
9 Stipulation, including the resolution of the remaining unsettled issue, results in rates that
10 are fair, just, and reasonable, as required by ORS 756.040.² The Stipulation results in a
11 decrease to the Reply Update of approximately \$18.5 million on an Oregon-allocated
12 basis, consisting of the removal of OTR costs (\$5.5 million Oregon-allocated), as
13 discussed in the Company's surrebuttal testimony and in Paragraph 13, and a \$13 million
14 Oregon-allocated, unspecified adjustment to NPC, as described in Paragraph 18. The
15 Stipulation results in a total company NPC baseline of \$2.463 billion and an Oregon-
16 allocated NPC baseline of \$703.6 million, subject to the Final Update. This reflects an
17 overall average rate increase of approximately \$112.3 million, subject to the Final Update,
18 when adjusted for forecasted load changes and PTCs as shown in Exhibit 1; or 6.5 percent
19 as shown in Exhibit 2.

20 12. TAM Adjustments and Updates: The Stipulating Parties agree that
21 PacifiCorp will file a Final Update to its 2024 TAM filing consistent with the TAM

² Sierra Club proposed several coal-related adjustments in the 2024 TAM. Non-Company Stipulating Parties do not take a position on Sierra Club's coal recommendations, or whether resolution of Sierra Club's recommendations result in rates that are fair, just, and reasonable.

1 Guidelines, including the adjustments described in this Stipulation. The Stipulating
2 Parties recognize that the estimated impact of the agreed-upon adjustments may change in
3 the TAM Final Update, along with the NPC baseline and overall rate change.

4 13. Ozone Transport Rule (OTR): PacifiCorp will remove the modeling
5 impacts of the OTR on the Company's generation, which is approximately \$5.5 million
6 Oregon-allocated, in the 2024 TAM Final Update. In the event that PacifiCorp is required
7 to implement the OTR in 2024 and the costs of OTR implementation exceed \$5.5 million
8 on an Oregon-allocated basis, the Company will file a deferral to capture these costs. The
9 Stipulating Parties agree not to oppose PacifiCorp's deferral. The Stipulating Parties may
10 contest the amortization of any costs included in the deferral in the proceeding in which
11 PacifiCorp seeks to amortize the deferral.

12 14. Technical Workshops: PacifiCorp agrees to hold the following technical
13 workshops. To this end, the intent of the participants in the workshop is to identify,
14 specify, and describe the modeling, inputs, and forecasting of the topics identified below.
15 As part of PacifiCorp's participation in the workshops, PacifiCorp will provide workshop
16 attendees standalone descriptions of how these topics are modeled in Aurora or outside of
17 the NPC model. The Stipulating Parties reserve the right to object to the Company's
18 approach to these issues in the 2025 TAM, including but not limited to the purpose of the
19 Company's modeling adjustments.

- 20 a. Coal Contracting
- 21 b. Coal Dispatch
- 22 c. Day-Ahead and Real-Time (DA/RT) Adjustment
- 23 d. Wind Forecasting
- 24 e. Short-Term Transmission
- 25 f. Extended Day-Ahead Market/EIM

1 15. Coal Reporting: PacifiCorp will work with Staff to provide the following
2 information in the 2023 Power Cost Adjustment Mechanism (PCAM) filing regarding the
3 operation of PacifiCorp’s coal facilities. The Stipulating Parties will meet prior to the
4 filing of the 2026 TAM to discuss if the reporting should be modified and continued for
5 subsequent years.

- 6 a. Generation per plant
7 i. Forecasted in the previous TAM
8 ii. Actual
9 iii. Variance
10
11 b. Amount of coal consumed per plant
12 i. Forecasted in the previous TAM
13 ii. Actual
14 iii. Variance
15
16 c. Price of coal consumed for the month at each plant
17 i. Forecasted in the previous TAM;
18 ii. Actual; and
19 iii. Variance.
20
21 d. PacifiCorp will provide a report comparing the monthly actual
22 generation against the forecasted generation for each coal facility, and
23 provide an explanation for each variance in coal generation greater than 10
24 percent when compared to the forecast. This report will also compare the
25 annual forecasted coal price for each facility in the TAM against the actuals
26 provided in the PCAM. For each variance greater than 10 percent,
27 PacifiCorp will provide an explanation of the variance.

28 16. PCAM: The Company agrees to work with the Stipulating Parties on the
29 rate effective date of revised Schedule 206 in the 2022 PCAM, Docket No. UE 421, to
30 minimize the impact on customers during the 2023-2024 winter heating season.

31 PacifiCorp agrees that if the combined January 1, 2024 rate increase for residential
32 customers from the 2024 TAM, 2022 PCAM, the Renewable Adjustment Clause rate
33 change, and any other rate change exceeds 15 percent, PacifiCorp will seek to delay the

1 rate effective date of revised Schedule 206, the PCAM tariff, until April 1, to keep the rate
2 increase to residential customers below 15 percent.

3 17. DA/RT Adjustment in the Calculation of the Transition Charge: In
4 calculating the transition adjustment for direct access, PacifiCorp will apply the DA/RT
5 adjustment for the market prices used for valuing changes in generation³ for months when
6 the net change in the Company's generation is a reduction of generation attributable to
7 direct access. For months in which there is a net increase in PacifiCorp generation
8 attributable to direct access, PacifiCorp will not apply the market adjustment to the net
9 generation increase, but rather PacifiCorp will value it at cost. PacifiCorp will continue to
10 apply the DA/RT adjustment to changes in sales and purchases.

11 18. Unspecified Monetary Adjustment: For the sole purpose of settling the
12 Stipulating Parties' NPC adjustments in the 2024 TAM, PacifiCorp agrees to reduce
13 Oregon-allocated NPC through an unspecified monetary adjustment of \$13.0 million.

14 19. Washington Cap and Invest: The treatment of Washington Cap and Invest
15 program in PacifiCorp's 2024 TAM is excluded from this Stipulation and will remain a
16 contested issue in this proceeding.

17 20. Other Adjustments: Any adjustment to PacifiCorp's Initial or Reply Filing
18 not incorporated into this Stipulation directly or by reference is resolved among the
19 Stipulating Parties without an adjustment or recommendation for the purposes of this
20 proceeding, except for the Washington Cap and Invest issue identified in Paragraph 19.
21 This stipulation allows for the settlement of this case without agreement of parties on the
22 methodology for issues raised by the Stipulating Parties, including but not limited to

³ PAC/100, Mitchell/44, line 17 – PAC/100, Mitchell/45, line 10.

1 market caps, and the day-ahead/real-time price adder. Approval of the Stipulation does not
2 represent the Commission adopting any parties' methodologies for those adjustments. The
3 issues raised by Sierra Club are not resolved by this Stipulation; however, the non-
4 PacifiCorp Stipulating Parties agree to take no position on the Sierra Club issues.

5 21. Entire Agreement: The Stipulating Parties agree that this Stipulation
6 represents a compromise among competing interests and a resolution of the contested
7 issues raised by the Stipulating Parties in this proceeding. Any other adjustment to
8 PacifiCorp's Initial Filing or Reply Update previously recommended by any Stipulating
9 Party but not incorporated into this Stipulation directly or by reference is resolved without
10 an adjustment for the purposes of this proceeding.

11 22. This Stipulation will be offered into the record of this proceeding as
12 evidence pursuant to OAR 860-001-0350(7). The Stipulating Parties agree to support this
13 Stipulation throughout this proceeding and any appeal, provide witnesses to sponsor this
14 Stipulation at the hearing, and recommend that the Commission issue an order adopting
15 the settlements contained herein. The Stipulating Parties also agree to cooperate in
16 drafting and submitting joint testimony or a brief in support of the Stipulation in
17 accordance with OAR 860-001-0350(7)(a).

18 23. If this Stipulation is challenged, the Stipulating Parties agree that they will
19 continue to support the Commission's adoption of the terms of this Stipulation. The
20 Stipulating Parties agree to cooperate in any hearing and put on such a case as they deem
21 appropriate to respond fully to the issues presented, which may include raising issues that
22 are incorporated in the settlements embodied in this Stipulation.

1 24. The Stipulating Parties have negotiated this Stipulation as an integrated
2 document. If the Commission rejects all or any material part of this Stipulation or adds
3 any material condition to any final order that is not consistent with this Stipulation, each
4 Stipulating Party reserves its right, pursuant to OAR 860-001-0350(9), to present evidence
5 and argument on the record in support of the Stipulation or to withdraw from the
6 Stipulation. The Stipulating Parties agree that in the event the Commission rejects all or
7 any material part of this Stipulation or adds any material condition to any final order that
8 is not consistent with this Stipulation, the Stipulating Parties will meet in good faith within
9 15 days and discuss next steps. A Stipulating Party may withdraw from the Stipulation
10 after this meeting by providing written notice to the Commission and other Stipulating
11 Parties. The Stipulating Parties shall be entitled to seek rehearing or reconsideration
12 pursuant to OAR 860-001-0720 in any manner that is consistent with the agreement
13 embodied in this Stipulation.

14 25. By entering into this Stipulation, no Stipulating Party shall be deemed to
15 have approved, admitted, or consented to the facts, principles, methods, or theories
16 employed by any other Stipulating Party in arriving at the terms of this Stipulation, other
17 than those specifically identified in the body of this Stipulation. No Stipulating Party shall
18 be deemed to have agreed that any provision of this Stipulation is appropriate for
19 resolving issues in any other proceeding, except as specifically identified in this
20 Stipulation.

21 26. The Stipulating Parties agree to make best efforts: (1) to provide each other
22 any and all news releases that any Stipulating Party intends to make about the Stipulation
23 two business days in advance of publication, and (2) to include in any news release or

1 announcement a statement that the Staff's recommendation to approve the settlement is
2 not binding on the Commission itself.

3 27. This Stipulation is not enforceable by any Stipulating Party unless and until
4 adopted by the Commission in a final order. Each signatory to this Stipulation
5 acknowledges that they are signing this Stipulation in good faith and that they intend to
6 abide by the terms of this Stipulation unless and until the Stipulation is rejected or adopted
7 only in part by the Commission. The Stipulating Parties agree that the Commission has
8 exclusive jurisdiction to enforce or modify the Stipulation.

9 28. This Stipulation may be executed in counterparts and each signed
10 counterpart shall constitute an original document.

STAFF

By: /s/ Stephanie Andrus

Date: 9/12/2023

PACIFICORP

By: _____

Date: _____

VITESSE, LLC

By: _____

Date: _____

OREGON CITIZENS' UTILITY BOARD

By: _____

Date: _____

CALPINE ENERGY SOLUTIONS LLC

By: _____

Date: _____

KLAMATH WATER USERS ASSOCIATION

By: _____

Date: _____

STAFF

By: _____

Date: _____

PACIFICORP

/s/ Matthew McVee

By: _____

Date: 9/12/2023

VITESSE, LLC

By: _____

Date: _____

OREGON CITIZENS' UTILITY BOARD

By: _____

Date: _____

CALPINE ENERGY SOLUTIONS LLC

By: _____

Date: _____

KLAMATH WATER USERS ASSOCIATION

By: _____

Date: _____

STAFF

By: _____

Date: _____

PACIFICORP

By: _____

Date: _____

VITESSE, LLC

/s/ Irion Sanger
By: _____

Date: 9/12/2023

OREGON CITIZENS' UTILITY BOARD

By: _____

Date: _____

CALPINE ENERGY SOLUTIONS LLC

By: _____

Date: _____

KLAMATH WATER USERS ASSOCIATION

By: _____

Date: _____

STAFF

By: _____

Date: _____

PACIFICORP

By: _____

Date: _____

VITESSE, LLC

By: _____

Date: _____

OREGON CITIZENS' UTILITY BOARD

By: /s/ Michael Goetz _____

Date: 9/12/2023 _____

CALPINE ENERGY SOLUTIONS LLC

By: _____

Date: _____

KLAMATH WATER USERS ASSOCIATION

By: _____

Date: _____

STAFF

By: _____

Date: _____

PACIFICORP

By: _____

Date: _____

VITESSE, LLC

By: _____

Date: _____

OREGON CITIZENS' UTILITY BOARD

By: _____

Date: _____

CALPINE ENERGY SOLUTIONS LLC

By:  _____

Date: 8-12-23 _____

KLAMATH WATER USERS ASSOCIATION

By: _____

Date: _____

STAFF

By: _____

Date: _____

PACIFICORP

By: _____

Date: _____

VITESSE, LLC

By: _____

Date: _____

OREGON CITIZENS' UTILITY BOARD

By: _____

Date: _____

CALPINE ENERGY SOLUTIONS LLC

By: _____

Date: _____

KLAMATH WATER USERS ASSOCIATION

By: /s/ Paul Simmons

Date: 9/12/2023

Docket UE 420

Exhibit 1

to

Stipulation

PacificCorp
CY 2024 TAM
Reply Filing

Line No	ACCT.	Total Company				Oregon Allocated					
		UE-400 CY 2023 - Final Filing	TAM CY 2024 - Reply Filing	TAM CY 2024 - Settlement	Factor	Factors CY 2023	Factors CY 2024	UE-400 CY 2023 - Final Filing	TAM CY 2024 - Initial Filing	TAM CY 2024 - Reply Filing	TAM CY 2024 - Settlement
1		Sales for Resale									
2	447	6,381,695	-	-	-	SG	26.002%	28.701%	-	-	-
3	447	-	-	-	-	SG	26.002%	28.701%	-	-	-
4	447	556,906,202	426,328,887	416,041,280	416,041,280	SG	26.002%	28.701%	144,805,420	122,362,385	119,409,697
5	447	-	-	-	-	SE	24.920%	28.515%	-	-	-
6		563,287,897	426,328,887	416,041,280	416,041,280				146,464,773	122,362,385	119,409,697
7											
8		Purchased Power									
9	555	59,530,582	22,795,100	27,788,625	27,788,625	SG	26.002%	28.701%	15,479,000	6,542,514	7,975,726
10	555	9,126,863	9,531,665	9,200,052	9,200,052	SG	26.002%	28.701%	2,373,145	2,735,722	2,640,544
11	555	171,504,893	71,888,724	86,683,767	86,683,767	SE	24.920%	28.515%	42,739,259	20,499,156	24,717,980
12	555	1,094,540,292	1,389,718,118	1,317,590,013	1,317,590,013	SG	26.002%	28.701%	284,599,752	398,868,641	378,166,860
13	555	-	-	-	-	SE	24.920%	28.515%	-	-	-
14	555	-	-	-	-	SG	26.002%	28.701%	-	-	-
15		1,334,702,630	1,493,933,607	1,441,262,456	1,441,262,456				345,191,156	428,646,032	413,501,110
16											
17		Wheeling Expense									
18	565	23,886,724	22,898,000	19,834,453	19,834,453	SG	26.002%	28.701%	6,210,969	6,572,048	5,692,767
19	565	-	-	-	-	SG	26.002%	28.701%	-	-	-
20	565	124,541,723	134,214,173	138,790,535	138,790,535	SG	26.002%	28.701%	32,383,041	38,521,355	39,834,835
21	565	6,893,033	9,027,449	10,923,881	10,923,881	SE	24.920%	28.515%	1,717,753	2,574,188	3,114,958
22		155,321,479	166,139,622	169,548,868	169,548,868				40,311,763	47,667,591	48,642,559
23											
24		Fuel Expense									
25	501	635,260,287	547,388,163	538,341,964	538,341,964	SE	24.920%	28.515%	158,307,751	156,088,389	153,508,855
26	501	-	-	-	-	SE	24.920%	28.515%	-	-	-
27	501	19,326,688	156,802,484	132,206,683	132,206,683	SE	24.920%	28.515%	4,816,238	44,712,416	37,698,894
28	547	396,871,314	692,508,768	637,993,977	637,993,977	SE	24.920%	28.515%	98,900,886	197,469,703	181,924,745
29	547	13,620,689	7,592,963	20,076,862	20,076,862	SE	24.920%	28.515%	3,394,295	2,165,143	5,724,941
30	503	4,484,106	4,440,902	4,440,902	4,440,902	SE	24.920%	28.515%	1,117,446	1,266,329	1,266,329
31		1,069,563,084	1,408,733,280	1,333,060,389	1,333,060,389				266,536,615	401,701,979	380,123,763
32											
33		(18,844,704)	-	(64,456,772)	(64,456,772)				(4,900,000)	-	(18,500,000)
34											
35		1,977,454,591	2,642,477,623	2,527,830,433	2,463,373,661				500,674,760	755,653,217	722,857,736
36											
37		(1,091,313)	(905,561)	(762,508)	(762,508)	OR	100.000%	100.000%	(1,091,313)	(905,561)	(762,508)
38		1,976,363,278	2,641,572,061	2,527,067,926	2,462,611,153				499,583,447	754,747,655	722,095,228
39											
40		(279,202,594)	(280,883,910)	(281,434,085)	(281,434,085)	SG	26.002%	28.701%	(72,597,592)	(80,617,632)	(80,775,540)
41		1,697,160,684	2,360,688,151	2,245,633,841	2,181,177,069				426,985,855	674,130,023	641,319,688
42											
43											
44											
45											
46											
47											
48											
49											
50											
51											
52											
53											

Increase Absent Load Change 247,144,168 214,333,833 195,833,833
 Oregon-allocated NPC (incl. PTC) Baseline in Rates from UE-400 426,985,855
 \$ Change due to load variance from UE-400 forecast \$83,509,234
 2024 Recovery of NPC (incl. PTC) in Rates \$510,495,090

Increase Including Load Change \$ 163,634,934 \$ 130,824,599 \$ 112,324,599
 Add Other Revenue Change - - -
Total TAM Increase/(Decrease) \$ 163,634,934 \$ 130,824,599 \$ 112,324,599

Docket UE 420

Exhibit 2

to

Stipulation

PACIFIC POWER
ESTIMATED EFFECT OF PROPOSED PRICE CHANGE
ON REVENUES FROM ELECTRIC SALES TO ULTIMATE CONSUMERS
DISTRIBUTED BY RATE SCHEDULES IN OREGON
FORECAST 12 MONTHS ENDED DECEMBER 31, 2024

Line No.	Description (1)	Sch No.	No. of Cust (3)	MWh (4)	Present Revenues (\$000)			Proposed Revenues (\$000)			Change			Line No.
					Base Rates (5)	Adders (6)	Net Rates (7)	Base Rates (8)	Adders (9)	Net Rates (10)	Base Rates (\$000) (11)	Adders (\$000) (12)	Net Rates (\$000) (13)	
1	Residential													
2	Residential	4	540,041	5,829,081	\$737,548	\$8,977	\$746,525	\$779,459	\$8,977	\$788,436	(\$41,911)	5.7%	(\$41,911)	5.6%
	Total Residential		540,041	5,829,081	\$737,548	\$8,977	\$746,525	\$779,459	\$8,977	\$788,436	(\$41,911)	5.7%	(\$41,911)	5.6%
	Commercial & Industrial													
3	Gen. Svc. < 31 kW	23	85,313	1,166,351	\$149,483	\$2,496	\$151,978	\$157,386	\$2,496	\$159,882	(\$7,904)	5.3%	(\$7,904)	5.2%
4	Gen. Svc. 31 - 200 kW	28	10,587	2,084,027	\$186,116	\$20,590	\$206,706	\$200,055	\$20,590	\$220,645	\$13,938	7.5%	\$13,938	6.7%
5	Gen. Svc. 201 - 999 kW	30	872	1,325,081	\$105,890	\$12,417	\$118,307	\$114,580	\$12,417	\$126,997	\$8,690	8.2%	\$8,690	7.4%
6	Large General Service >= 1,000 kW	48	182	6,123,426	\$435,177	\$16,877	\$452,053	\$473,256	\$16,877	\$490,132	\$38,079	8.7%	\$38,079	8.4%
7	Parital Req. Svc. >= 1,000 kW	47	6	32,263	\$4,320	\$88	\$4,409	\$4,511	\$88	\$4,600	\$191	8.7%	\$191	8.4%
8	Dist. Only Lg Gen Svc >= 1,000 kW	848	1	0	\$1,219	\$111	\$1,329	\$1,219	\$111	\$1,329	\$0	0.0%	\$0	0.0%
9	Agricultural Pumping Service	41	7,913	237,644	\$30,384	(\$2,916)	\$27,468	\$31,919	(\$2,916)	\$29,003	(\$1,535)	5.1%	(\$1,535)	5.6%
10	Total Commercial & Industrial		104,874	10,968,792	\$912,589	\$49,663	\$962,251	\$982,927	\$49,663	\$1,032,589	\$70,338	7.7%	\$70,338	7.3%
	Lighting													
11	Outdoor Area Lighting Service	15	5,703	8,050	\$788	\$242	\$1,031	\$807	\$242	\$1,049	\$18	2.3%	\$18	1.8%
12	Street Lighting Service Comp. Owned	51	1,121	21,063	\$2,715	\$933	\$3,648	\$2,770	\$933	\$3,703	\$56	2.1%	\$56	1.5%
13	Street Lighting Service Cust. Owned	53	292	7,519	\$392	\$221	\$613	\$409	\$221	\$630	\$17	4.3%	\$17	2.8%
14	Recreational Field Lighting	54	100	1,394	\$88	\$52	\$140	\$91	\$52	\$143	\$3	3.6%	\$3	2.3%
15	Total Public Street Lighting		7,215	38,026	\$3,983	\$1,448	\$5,431	\$4,077	\$1,448	\$5,525	\$94	2.4%	\$94	1.7%
16	Subtotal		652,131	16,835,899	\$1,654,120	\$60,087	\$1,714,207	\$1,766,463	\$60,087	\$1,826,550	\$112,343	6.8%	\$112,343	6.6%
17	Employee Discount		975	13,481	(\$419)	(\$5)	(\$424)	(\$443)	(\$5)	(\$449)	(\$24)		(\$24)	
17	Paperless Credit				(\$2,072)		(\$2,072)			(\$2,072)			\$0	
18	AGA Revenue				\$3,521		\$3,521	\$3,521		\$3,521			\$0	
19	COOC Amortization				\$1,767		\$1,767	\$1,767		\$1,767			\$0	
20	Total Sales with AGA		652,131	16,835,899	\$1,656,916	\$60,082	\$1,716,998	\$1,769,235	\$60,082	\$1,829,317	\$112,319	6.8%	\$112,319	6.5%

¹ Excludes effects of the Low Income Bill Payment Assistance Fund (Sch. 91), Low Income Discount Cost Recovery Adjustment (Sch. 92), BPA Credit (Sch. 98), Public Purpose Charge (Sch. 290) and System Benefits Charge (Sch. 291).

² Percentages shown for Schedules 48 and 47 reflect the combined rate change for both schedules

ATTORNEY CERTIFICATE OF SERVICE

I hereby certify that on March 14, 2024, I have made service of the foregoing **PETITION FOR JUDICIAL REVIEW OF ORDER OF THE PUBLIC UTILITY COMMISSION OF OREGON** on the parties listed below in the manner indicated:

Attorney General of the State of Oregon	<input checked="" type="checkbox"/>	U.S. Mail
Office of the Solicitor General	<input type="checkbox"/>	Facsimile
400 Justice Building	<input type="checkbox"/>	Hand Delivery
1162 Court Street, NE	<input checked="" type="checkbox"/>	Email:
Salem, OR 97301-4096		benjamin.gutman@doj.state.or.us
	<input type="checkbox"/>	Oregon Appellate Court eFiling system

Oregon Public Utility Commission	<input checked="" type="checkbox"/>	U.S. Mail
PO Box 1088	<input type="checkbox"/>	Facsimile
Salem, OR 97308-1088	<input type="checkbox"/>	Hand Delivery
	<input type="checkbox"/>	Email:
	<input type="checkbox"/>	Oregon Appellate Court eFiling system

Brent Coleman	<input checked="" type="checkbox"/>	U.S. Mail
Tyler C. Pepple	<input type="checkbox"/>	Facsimile
Davison Van Cleve PC	<input type="checkbox"/>	Hand Delivery
107 SE Washington Street, Suite 430	<input checked="" type="checkbox"/>	Email: blc@dvclaw.com;
Portland, OR 97214		tcp@dvclaw.com
<i>Attorney for Alliance of Western Energy Consumers</i>	<input type="checkbox"/>	Oregon Appellate Court eFiling system

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Joni Sliger
Sanger Law, PC
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Portland, OR 97214
Attorney for Vitesse, LLC

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 Facsimile
 Hand Delivery
 Email: irion@sanger-law.com; joni@sanger-law.com
 Oregon Appellate Court eFiling system

I further certify that I filed the foregoing **PETITION FOR JUDICIAL REVIEW OF ORDER OF THE PUBLIC UTILITY COMMISSION OF OREGON** with the Appellate Court Administrator on March 14, 2024, via the Oregon Appellate Court eFiling system.

DATED: March 14, 2024.

/s/ Dallas DeLuca

Dallas DeLuca, OSB #072992
Attorneys for Petitioner