

February 7, 2023

***VIA ELECTRONIC FILING***

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

**Re: UE 407—Stipulating Parties' Joint Reply Testimony**

PacifiCorp d/b/a Pacific Power encloses for filing in this docket the Stipulating Parties' Joint Reply Testimony in Support of the Stipulation.

If you have questions about this filing, please contact Cathie Allen at (503) 813-5934.

Sincerely,



Matthew McVee  
Vice President, Regulatory Policy and Operations

Enclosures

Docket No. UE 407  
Exhibit Joint Stipulating  
Parties/200

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

**STIPULATING PARTIES**

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Joint Reply Testimony of Matthew McVee, Bret Stevens, and Bradley Mullins in  
Support of Stipulation

on behalf of

PacifiCorp, Public Utility Commission of Oregon Staff, Alliance of  
Western Energy Consumers

February 2023

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1 **Q. Are you the same witnesses who previously submitted joint testimony in support**  
2 **of the Stipulation on behalf of PacifiCorp d/b/a Pacific Power (PacifiCorp or the**  
3 **Company), Staff of the Public Utility Commission of Oregon (Staff), and the**  
4 **Alliance of Western Energy Consumers (AWEC), together referred to as the**  
5 **Stipulating Parties?**

6 A. Yes.

7 **I. JOINT TESTIMONY IN SUPPORT OF THE STIPULATION**

8 **Q. What is the purpose of this Joint Testimony?**

9 A. The purpose of this joint testimony is to respond to the testimony filed by the Oregon  
10 Citizens' Utility Board (CUB) on January 20, 2023, which objects to the Stipulation  
11 supported by Staff, AWEC, and PacifiCorp.

12 **Q. Please summarize your testimony.**

13 A. The Stipulation represents a compromise of competing interests between PacifiCorp,  
14 Staff, and AWEC. It balances the important state policy advancing additional  
15 protections against wildfires while protecting customer interests with regards to costs  
16 and efficacy and allowing recovery of prudently-incurred wildfire mitigation  
17 expenses consistent with the terms of the Stipulation. CUB is concerned that  
18 approval of this Stipulation without an earnings test could result in rates that are not  
19 fair, just, and reasonable. However, this contention dismisses the customer benefits  
20 included in the mechanism.

21 **II. BACKGROUND ON THE STIPULATION**

22 **Q. Please provide an overview of the Stipulation.**

23 A. The Stipulation represents the settlement of PacifiCorp's proposed automatic

1 adjustment clause (WPP Adjustment) to recover operating costs and prudent  
2 investments made as part of the Company's filed Wildfire Protection Plan (WPP).<sup>1</sup>  
3 This Stipulation results in a mechanism that satisfies the requirement of ORS 757.963  
4 that "[a]ll reasonable operating costs incurred by, and prudent investments made by, a  
5 public utility to develop, implement or operate a wildfire protection plan[...] are  
6 recoverable in the rates of a public utility."<sup>2</sup> The mechanism will also result in an  
7 administratively efficient process by which the Commission may approve fair, just  
8 and reasonable rates, without requiring an earnings test, as CUB recommends. The  
9 provisions in this Stipulation strike a reasonable balance between complying with the  
10 requirements of ORS 757.963, allowing for a timely prudence review and important  
11 customer protections, and establishing provisions that benefit customers as compared  
12 to standard regulation.

13 **Q. What other customer protections are provided by the Stipulation?**

14 A. First, under the Stipulation, there is no deferral of capital costs between the time that  
15 new investments in plant come into service and when the plant costs are included in  
16 tariffs. This is a benefit to customers as compared to having the mechanism include a  
17 deferral of capital costs between when the plant is used and useful and when new  
18 rates including those costs go into effect. Instead, the Company is accepting  
19 regulatory lag on capital additions for that period.

20 Second, existing rate base is adjusted each year for the effects of accumulated  
21 depreciation. This benefit arises in part because the Stipulation keeps the WPP costs

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<sup>1</sup> The Wildfire Protection Plan may also be referred to as a Wildfire Mitigation Plan or WMP as provided in OAR 860-300-0010(11).

<sup>2</sup> ORS 757.963.

1 in a separate mechanism rather than folding the costs into base rates while the  
2 mechanism is in place. If the WPP capital plant were included in overall rate base of  
3 a subsequent rate case, as would be the case in standard regulatory treatment of most  
4 rate base, then the WPP-related plant accumulated depreciation might only be  
5 updated whenever the next rate case is filed and rates go into effect. PacifiCorp may  
6 not file a general rate case each year. However, depreciation is updated each year  
7 under the Stipulation and that would not occur otherwise under standard regulation.  
8 Considering these, and other design elements, various parties were willing to forego  
9 any earnings test on the limited costs that were being deferred.

10 **Q. What costs are being deferred under the Stipulation?**

11 A. Under the Stipulation, wildfire mitigation operations and maintenance (O&M)  
12 expense is to be forecast on an annual basis, and subsequently trued up through a  
13 deferral. Thus, the deferral is limited solely to the difference between actual and  
14 forecast O&M expense. As noted in the Stipulation:

15 Any under or over expenditures of wildfire mitigation-related O&M on  
16 a 12-month basis will be carried forward in a subsequent 12-month  
17 period in a balancing account to be recovered (if customers owe money)  
18 or refunded (if the Company owes money) in rates for the subsequent  
19 12-month period of the wildfire mechanism's operation.<sup>3</sup>

20 **Q. Are WPP costs defined?**

21 A. Yes. The WPP Adjustment mechanism only includes wildfire mitigation-related  
22 activities, which are defined costs. The WPP Adjustment mechanism will not, for  
23 example, include unpredictable costs associated with wildfire restoration. Potential  
24 restoration costs from a wildfire event would be handled outside of the mechanism,

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<sup>3</sup> Stipulation at ¶16(b).

1 potentially through a separate accounting request. In contrast, the mitigation costs in  
2 the WPP adjustment will be limited to the costs established in the WPP, which will be  
3 reviewed by parties and the Commission. To the extent that significant overspending  
4 occurred relative to the forecast, parties would still be able to review and contest the  
5 prudence of the overspending relative to the forecast that was approved. Applying a  
6 separate earnings test on potential overspending was therefore not necessary in the  
7 context of the Stipulation because PacifiCorp has an obligation to prudently manage  
8 its costs in line with its budget estimates. Further, applying an earnings test to the  
9 O&M true-up may provide PacifiCorp with an undesirable incentive to over forecast  
10 its expenditures in the annual process. It is important, however, for the forecasts to be  
11 realistic and accurate.

12 **Q. Please explain how the Stipulation allows for a review of the prudence of**  
13 **PacifiCorp's proposed costs for recovery under the WPP adjustment.**

14 A. PacifiCorp will make an advice filing every year on July 1.<sup>4</sup> This advice filing will,  
15 at a minimum, contain the following information to facilitate the prudence review:

- 16 • Detailed accounting comparing the amounts spent relative to its WPP budget;
- 17 • Invoice level data detailing non-labor O&M using the same format as Staff
- 18 Standard Data Request 57;
- 19 • A project level itemized budget of WPP investments and costs in each annual
- 20 filing; and
- 21 • A detailed reconciliation between the budget and actual expenditures, by project,
- 22 in each annual filing.

23 The proposed rate effective date of this filing will be 120 days from the filing of that  
24 advice letter. Parties will have 120 days, as opposed to the standard 30 days for most  
25 advice filings, to review PacifiCorp's filing. As with any advice filing, if a Party

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<sup>4</sup> Stipulation at ¶18, 21.

1 identifies issues that need further investigation, or if any Party would like to contest  
2 an issue of prudence regarding PacifiCorp's filing, they may move to suspend the  
3 advice filing and seek a contested case consistent with ORS 757.215 and the  
4 Commission's existing rules.

5 **III. RESPONSE TO CUB'S OBJECTIONS**

6 **Q. What are CUB's objections to the Stipulation?**

7 A. CUB contends that the Stipulation cannot be guaranteed to result in rates that will be  
8 just and reasonable because it does not include an earnings test.<sup>5</sup> Accordingly, CUB  
9 recommends that the Commission modify the Stipulation to include an earnings test  
10 in the WPP adjustment that would be set at PacifiCorp's authorized return on equity  
11 (ROE).<sup>6</sup>

12 **Q. Has the Commission previously approved deferrals and automatic adjustment**  
13 **clauses without an earnings test?**

14 A. Yes. The Commission has a history of approving deferrals both with and without an  
15 earnings test, depending on the facts and circumstances in the case. For example,  
16 there are a number of automatic adjustment clauses that amortize certain deferrals that  
17 exist without an earnings test. A recent example is PacifiCorp's deferral of certain  
18 costs and revenues associated with the Energy Affordability Act (HB 2475). In  
19 approving that deferral, the Commission adopted Staff's recommendation which  
20 notes that "No earnings review is applicable due to the AAC."<sup>7</sup> As another example,

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<sup>5</sup> CUB/100, Jenks/3:8-9.

<sup>6</sup> CUB/100, Jenks/3:14-17.

<sup>7</sup> *In the Matter of PacifiCorp, d/b/a Pacific Power, Application for Approval of Deferred Accounting for Costs and Revenues Associated with House Bill 2475 Energy Affordability Act*, Docket No. UM 2223, Order No. 22-094, Appendix A at 5 (Mar. 24, 2022).



1 in the stipulation that created the Renewable Adjustment Clause (RAC), the  
2 Commission approved a settlement that stated that the deferrals for the RAC would  
3 not be subject to ORS 757.259(5), which provides for an earnings review on the  
4 amortization of deferrals.<sup>8</sup>

5 **Q. Why did the Stipulating Parties agree to forgo an earnings test related to the**  
6 **true-up of O&M expense?**

7 A. Parties have differing views on the reasoning and justification for applying an  
8 earnings test to deferrals. In the spirit of compromise, however, the Stipulating  
9 Parties were willing to forego an earnings test in this docket given the unique design  
10 elements of the WPP adjustment mechanism. Since the forecast is established in the  
11 approved WPP any variance from the approved forecast would be subject to scrutiny  
12 in the annual prudence review. Other design elements, such as how costs are  
13 segregated from PacifiCorp's general revenue requirement and the lack of capital  
14 deferral, were also viewed favorably by some parties and as a reason that no earnings  
15 test would apply.

16 **Q. Are there any other comments you want to add?**

17 A. Yes. In considering whether this Stipulation results in just and reasonable rates, one  
18 should consider its overall effect. This Stipulation creates a mechanism designed to  
19 allow PacifiCorp to recover its WPP costs while limiting risk of over or under  
20 recovery. Depreciation expense for PacifiCorp's capital investment under its WPP  
21 will be adjusted each year. The Stipulating Parties anticipate this settlement will

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<sup>8</sup> *In the Matter of Public Utility Commission of Oregon, Investigation of Automatic Adjustment Clause Pursuant SB 838, UM 1330, Order No. 07-572 at 4 (Dec. 19, 2007).*

1 provide a significant benefit to ratepayers every year. Further, to the extent  
2 PacifiCorp's actual WPP O&M varies from what is forecasted in rates, the variance  
3 will be carried over to the next year. This eliminates the possibility that PacifiCorp  
4 will over recover for WPP O&M and allows cost savings to be passed on to  
5 customers. The Stipulating Parties believe these measures will benefit customers year  
6 after year with rates reflecting actual spend on costs associated with the WPP.

7 CUB ignores these benefits and only focuses on the lack of an earnings test  
8 that would prevent PacifiCorp from recovering deferred WPP costs in years in which  
9 PacifiCorp's earnings exceed its authorized ROE. The Stipulating Parties disagree  
10 that the year-over-year benefits of the settlement are outweighed by the potential  
11 benefit of an earnings review.

12 **Q. Do the Stipulating Parties still recommend approval of this settlement?**

13 A. Yes. The Parties continue to recommend the Commission approve the Stipulation on  
14 the basis that the proposed WPP mechanism satisfies the requirement of ORS  
15 757.963 and will result in an administratively efficient process by which the  
16 Commission may establish fair, just and reasonable rates.

17 **Q. Does this conclude this joint reply testimony?**

18 A. Yes.