

ORDER NO. **17 217**

ENTERED JUN 15 2017

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UE 219

In the Matter of

PACIFICORP, dba PACIFIC POWER,

Revisions to Schedule 199, Klamath Dam  
Removal Surcharges.

ORDER

DISPOSITION: STAFF'S RECOMMENDATION ADOPTED

This order memorializes our decision, made and effective at our June 13, 2017 Regular Public Meeting, to adopt Staff's recommendation in this matter. The Staff Report with the recommendation is attached as Appendix A.

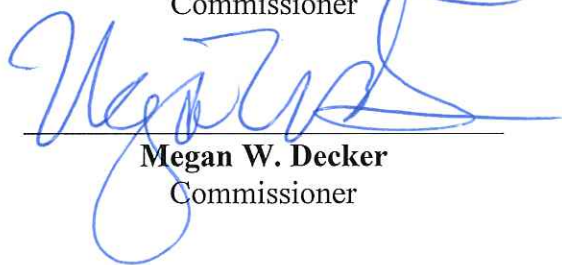
Dated this 15 day of June, 2017, at Salem, Oregon.



**Lisa D. Hardie**  
Chair



**Stephen M. Bloom**  
Commissioner



**Megan W. Decker**  
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 Circuit Court for Marion County in compliance with ORS 183.484.

PUBLIC UTILITY COMMISSION OF OREGON  
STAFF REPORT  
PUBLIC MEETING DATE: June 13, 2017

REGULAR \_\_\_\_\_ CONSENT X EFFECTIVE DATE \_\_\_\_\_ N/A \_\_\_\_\_

DATE: June 7, 2017

TO: Public Utility Commission

FROM: Lance Kaufman *LK*

THROUGH: *JC for SE* Jason Eisdorfer and Marc Hellman *MH*

SUBJECT: PACIFIC POWER: (Docket No. UE 219) Revision to Schedule 199  
Klamath Dam Removal Surcharges.

**STAFF RECOMMENDATION:**

Staff recommends the Commission maintain the current Pacific Power ("PacifiCorp" or "Company") Klamath Dam Removal Surcharges.

**DISCUSSION:**

Issue

Whether the Commission should require any change to PacifiCorp's Schedule 199 Klamath Dam Removal surcharges.

Applicable Law

The Commission must require PacifiCorp to collect monies from customers to pay for Oregon's share of the customer contribution towards the costs for removal of the Klamath River dams as set forth in ORS 757.736. Under this statute, PacifiCorp was directed to file tariffs for the collection of two non-bypassable surcharges of a specified amount per kilowatt hour billed to its retail customers for the purpose of paying the costs of removing four Klamath River dams. One surcharge is for the cost of removing the J.C. Boyle Dam, and the other surcharge is for the costs of removing the Copco 1 and 2 Dams and the Iron Gate Dam. The surcharges may not exceed the amounts necessary to fund Oregon's share of the customer contribution of \$200 million (calculated as \$184 million). And, the maximum level of surcharges collected in a calendar year is two percent of PacifiCorp's annual revenue requirement as determined in PacifiCorp's last

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rate case decided prior to January 1, 2010. (ORS 757.736(3)). Per ORS 757.736(7), to the extent practicable, the Commission sets the surcharges so that total annual collections remain approximately the same during the collection period, account for changes in energy usage and account for changes in interest rates on the collected funds over the collection period. The Commission may change the collection schedule if a dam will be removed in a year other than 2020.

Contributions are paid into trust accounts established by the Commission and may be distributed as provided in ORS 757.738.

At any time, if the Commission determines that surcharge collections exceed those needed or allowed, the Commission must direct the trust account trustee to refund excess amounts to customers, to otherwise use the amounts to benefit customers, or to adjust future surcharge amounts.<sup>1</sup> If one or more of the Klamath Dams will not be removed, ORS 757.736(10) specifies the actions the Commission must take for distribution of the collection fund.

In Docket No. UE 219, Order No. 10-364, at 17-18, the Commission determined that the surcharges in Schedule 199 are fair, just and reasonable, and ordered that no less than thirty days after the Company's annual Transition Adjustment Mechanism ("TAM") filing, Staff, the Company, and other interested parties review the status of surcharge collections to determine if the calculation of Schedule 199 surcharges should be revised. If revisions were required, then the Company would be required to file a revised tariff within 60 days of the TAM filing, to be effective 30 days from the tariff filing.

## Analysis

### *Background*

The initial Klamath Agreement in Principle ("KAP") was signed November 13, 2008, by the states of Oregon and California, the United States, and by PacifiCorp. The KAP was followed by the Klamath Hydroelectric Settlement Agreement ("KHSA"), which was effective on February 18, 2010. The agreement set in place was a process for the ultimate removal of four dams<sup>2</sup> on the Klamath River (hereinafter "Klamath Dams").

In response to the KAP, the 2009 Oregon Legislature passed Senate Bill 76 ("SB 76"),<sup>3</sup> which prescribes various actions, with specific timeframes, that must be taken by PacifiCorp and the Commission to implement the final agreement. The Oregon Legislature subsequently passed House Bill 3461 that enabled the Commission to direct

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<sup>1</sup> ORS 757.736(9).

<sup>2</sup> Specifically, the dams are known as J.C. Boyle, Copco No. 1 and No. 2, and Iron Gate.

<sup>3</sup> Codified as ORS 757.732 – 757.744.

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the Klamath Dam removal funds to the Oregon State Treasury (OST) for the potential of earning higher rates of interest.<sup>4</sup>

In February 2016, a second KAP was executed by the parties to the first KAP, indicating their intent to negotiate an amended KHSA. The KHSA was amended (Amended KHSA) on April 6, 2016, and November 30, 2016. The Amended KHSA contemplates that dam removal will be conducted by a private dam removal entity – the Klamath River Renewal Corporation (KRRC). Consistent with the Amended KHSA, PacifiCorp and KRRC have filed an application the Federal Energy Regulatory Commission (FERC) seeking to transfer PacifiCorp's license for the Klamath Dams to the KRRC. The KRRC has also filed an application with FERC seeking approval to surrender the license for, and remove, the Klamath Dams. PacifiCorp's and the KRRC's applications are currently pending before FERC.

The Amended KHSA retains the same funding mechanisms set out in the original settlement. Specifically, Section 2.2, of the Amended KHSA provides that each party shall support implementation of SB 76.

The Klamath dam removal surcharges have been set as follows. On March 18, 2010, PacifiCorp filed Schedule 199, Klamath Dam Removal Surcharges, as required by SB 76, along with the workpapers necessary for Staff to perform an analysis of whether the surcharge rates comply with the applicable statutes.<sup>5</sup> As also required, the tariff rates went into effect on the day they were filed, as the tariff was filed subsequent to January 1, 2010.

The surcharges resulted in an overall increase in rates of 1.7 percent, based on the annual revenue requirement and given the rates in effect as of January 1, 2010. The 1.7 percent is less than the two percent cap specified in section ORS 757.736(3). In any year, the surcharges collected cannot exceed \$19.06 million.<sup>6</sup> This value is two percent of PacifiCorp's revenue requirement as determined by the Commission in the most recent case concluded prior to January 1, 2010.<sup>7</sup>

At the May 8, 2012, public meeting, the Commission adopted the Staff recommendation not to raise the surcharges in 2012, and directed \$30 million of the surcharge fund monies to be deposited in the OST's Oregon Intermediate Term Pool (OITP). After

<sup>4</sup> Codified as ORS 757.738(1)(c).

<sup>5</sup> ORS 757.736(7) requires that the amount of each surcharge shall be calculated based on a collection schedule that will fund, by December 31, 2019, Oregon's share of the customer contribution of the \$200 million identified in the KAP. Oregon's share is \$184 million including interest.

<sup>6</sup> \$19,061,680 is the maximum annual surcharge that may be collected under ORS 757.736(3).

<sup>7</sup> ORS 757.736(3).

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working extensively with Treasury, the transfer of funds to the OITP took place in September 2012. The interest earned through the OITP has been significantly greater than previously achieved through the short term fund alternative.

On May 21, 2013, the Commission adopted the Staff recommendation to raise the surcharges in 2013, consistent with Advice Filing No. 13-010. With an Oregon State Treasury short-term fund (OSTF) interest rate of 0.57 percent and an OITP of 2.5 percent, the proposed change increased the annual surcharge by \$1.7 million and ensured the attainment of \$184 million target. The average residential consumer using 900 kWh a month had a bill impact of \$0.11 per month as a result of this change.

On June 10, 2014, the Commission, in Order No. 14-211, adopted the Staff recommendation not to raise the surcharges in 2014. At the June 23, 2015, public meeting, the Commission again adopted the Staff recommendation not to raise the surcharges in 2015, as stated in Order No. 15-201.

At the June 7, 2016, Regular Public Meeting, the Commission adopted the Staff recommendation to raise the surcharges to its maximum level authorized by law. The Commission issued Order No. 16-218, approving the PacifiCorp advice filing 16-08, for rates effective July 1, 2016.

#### *Disbursements from Trust Accounts*

Following the Commission's approval on August 30, 2016,<sup>8</sup> ODFW and the Commission executed an Interagency Agreement to govern the disbursement of trust funds to ODFW for purposes of providing funds to the KRRC. ODFW then executed a grant agreement with the KRRC in October 2016 to cover certain initial costs. Pursuant to these agreements, \$308,369.00 of the Oregon customer contribution was disbursed and provided to the KRRC.

On January 24, 2017, the Commission approved a Funding Agreement with the KRRC, establishing a structure for additional disbursements of the Oregon customer contribution. Under the Funding Agreement, customer contribution funds may be disbursed to KRRC in one of three funding phases: Phase 1, which encompasses funding for the start-up costs of the KRRC, evaluation of risk mitigation such as insurance for the dam removal activities, certain regulatory actions and preparation work for the KRRC's Definite Plan, a requirement under the KHSA; Phase 2, which encompasses funding for the development of the Definite Plan, including preparation of procurement documents for final design, deconstruction and risk management and completion of regulatory actions; and Phase 3, which consists of funding for the Facilities Removal through deconstruction and restoration. Since the Funding

<sup>8</sup> Docket No. UE 219, Order No. 16-330.

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Agreement was executed, an additional \$3,739,000 has been disbursed for Phase 1 activities.

*Current Review of Surcharge Rate Levels*

On May 17, 2017, representatives from interested parties held a conference call to review the surcharge. The parties included Staff, PacifiCorp, Salmon River Restoration Council, the Oregon Water Resources Department and the Oregon Department of Fish and Wildlife.

Based on the Treasury interest rate statements provided by Staff, the Company evaluated the Schedule 199 surcharge rates. The interest rates considered for the short term fund – OSTF – and the intermediate fund – OITP – are 0.5 and 2.5 percent respectively. With no change to the current level of surcharge rates, the total annual surcharge collection for calendar 2018 is projected to be \$19,061,680. This value is essentially equal to the two percent cap specified in ORS 757.736(3). The total surcharge collection (interest adjusted) projected at the current surcharge rates is \$182,735,614. This value is calculated as the sum of the actual collection with interest from March 2010 to February 2017, and the forecast collection with interest from March 2017 through December 2019. If the Commission does not change the present surcharge rates through 2019, the current projections show a slight deficit of \$1,264,386, given the \$184 million target. For reference, the worksheet provided by the Company is attached to this memo as Attachment 1. A key assumption in this analysis is that the monies withdrawn from the fund by the KRRC, approximately \$4 million, continue to earn interest as if the monies were still deposited at the Treasury. This is a reasonable assumption given that at the time the surcharge accounts were authorized, it was contemplated that significant monies would not be withdrawn from the fund prior to 2020.

A second key assumption of this analysis is that OSTF and OITP continue to earn 0.5 and 2.5 percent respectively. Recent returns on the OSTF have been higher than 0.5, and recent returns on OITP have been lower than 2.5. Given current expectations regarding the future interest rates, it is likely that the OSTF rate will remain above 0.5 percent. If this is the case the projected deficit will reduce.

At the May 17, 2017, conference call, Staff proposed no change in the surcharge rate levels. No parties on the call disagreed.

Consistent with Order No. 10-364, interested parties will meet again in 2018 to reassess the surcharge revenues, interest rates, updated load forecasts, and fund balances and to discuss other issues related to the annual surcharge review.

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Staff circulated this memo to the Docket No. UE 219 service list and no comments were received in response. The Company has reviewed this memo and has no areas of concern.

Conclusion

Staff finds that no change in the surcharge rate is warranted at this time, and recommends that the Commission maintain the current surcharges without change.

**PROPOSED COMMISSION MOTION:**

Require PacifiCorp to maintain the current Klamath Dam Removal Surcharges.

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PACIFIC POWER  
STATE OF OREGON  
KLAMATH DAM REMOVAL SURCHARGES  
ACTUAL AND FORECAST COLLECTIONS REFLECTING PRESENT RATES

Line No.	Description	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)
		Actual Collections Mar-Dec 2010	Actual Collections 2011	Actual Collections 2012	Actual Collections 2013	Actual Collections 2014	Actual Collections 2015	Actual Collections Jan-Feb 2017	Actual Collections 2016	Actual Collections Mar-Dec 2017	Total Actual Collections March 2010 - Feb 2017	2017 Forecast Mar-Dec Collections	2018 Forecast Collections	2019 Forecast Collections	Total Forecast Collections Mar-Dec 2017 - Dec 2019	Total Actual Plus Forecast
1	Residential															
2	Residential	\$5,078,272	\$2,289,898	\$7,241,633	\$7,722,702	\$7,904,117	\$7,702,782	\$2,141,412	\$7,984,320	\$2,141,412	\$52,165,878	\$6,551,708	\$8,193,011	\$8,249,432	\$21,994,152	\$76,159,875
3	Commercial & Industrial															
4	Com. Svc. < 31 KW	\$1,093,596	\$1,541,161	\$1,540,603	\$1,599,878	\$1,571,190	\$1,578,038	\$340,003	\$1,621,556	\$1,621,556	\$10,919,184	\$1,450,706	\$1,777,240	\$1,765,447	\$4,594,443	\$15,513,626
5	Com. Svc. 31 - 200 KW	\$1,921,775	\$2,615,111	\$2,459,332	\$2,775,078	\$2,935,236	\$2,923,379	\$592,120	\$3,058,692	\$592,120	\$19,422,723	\$2,054,133	\$3,061,403	\$3,039,576	\$8,206,212	\$25,628,937
6	Com. Svc. 201 - 999 KW	\$1,234,977	\$1,680,970	\$1,710,016	\$1,964,297	\$1,942,761	\$1,918,516	\$342,977	\$1,954,554	\$342,977	\$12,649,248	\$1,627,279	\$1,981,488	\$1,979,303	\$5,581,071	\$18,231,578
7	Large General Service > 1,000 KW	\$1,939,014	\$2,778,493	\$2,077,794	\$3,228,705	\$3,491,098	\$3,494,724	\$492,228	\$3,245,780	\$492,228	\$21,711,775	\$2,979,274	\$3,350,039	\$3,337,016	\$9,686,409	\$31,398,304
8	Pumped Hy. Svc. > 1,000 KW	\$785,123	\$144,621	\$35,223	\$92,259	\$78,099	\$79,474	\$67,806	\$48,510	\$67,806	\$1,000,000	\$89,130	\$74,814	\$74,399	\$238,248	\$1,249,311
9	Agricultural Pumping Service	\$228,080	\$228,080	\$254,505	\$262,523	\$339,101	\$328,718	\$262,523	\$339,101	\$262,523	\$2,036,400	\$340,879	\$338,893	\$335,051	\$1,015,722	\$3,052,123
10	Total Commercial & Industrial	\$6,659,466	\$8,908,388	\$9,124,412	\$9,857,090	\$10,322,484	\$10,322,483	\$1,895,827	\$10,247,005	\$1,895,827	\$67,769,019	\$8,312,451	\$10,343,894	\$10,294,355	\$29,922,780	\$97,691,799
11	Lighting															
12	Outdoor Area Lighting Service	\$17,548	\$22,783	\$22,190	\$21,647	\$22,782	\$22,674	\$22,394	\$22,394	\$22,394	\$156,441	\$18,130	\$22,276	\$22,190	\$62,596	\$119,037
13	Street Lighting Service	\$13,806	\$17,803	\$17,069	\$17,078	\$16,241	\$16,477	\$16,272	\$16,272	\$16,272	\$113,230	\$13,458	\$16,099	\$16,104	\$45,652	\$100,282
14	Street Lighting Service - TMS	\$46,740	\$7,717	\$16,610	\$61,197	\$63,447	\$65,088	\$61,108	\$10,855	\$61,108	\$41,224	\$5,376	\$66,382	\$66,402	\$138,161	\$699,384
15	Street Lighting Service	\$1,356	\$1,157	\$1,039	\$923	\$814	\$772	\$153	\$690	\$772	\$6,901	\$9,867	\$826	\$826	\$2,252	\$9,243
16	Remanufact Field Lighting	\$7,993	\$11,123	\$11,073	\$10,921	\$11,075	\$11,240	\$11,075	\$11,394	\$11,075	\$77,612	\$9,867	\$11,833	\$11,833	\$33,295	\$111,138
17	Total Public Street Lighting	\$31,267	\$31,793	\$31,681	\$31,688	\$31,192	\$31,666	\$31,611	\$31,666	\$31,611	\$153,881	\$39,439	\$49,439	\$49,439	\$138,946	\$230,672
18	TOTAL	\$11,795,457	\$16,691,579	\$16,677,037	\$17,694,584	\$18,305,773	\$18,302,647	\$18,646,233	\$18,646,233	\$18,646,233	\$79,769,019	\$15,878,213	\$18,998,699	\$18,822,503	\$53,253,890	\$176,023,081
19	Over/Under Collections	\$12,792,572	\$16,186,492	\$16,160,492	\$17,251,522	\$18,134,272	\$18,488,988	\$18,977,240	\$18,977,240	\$18,977,240	\$21,706,201	\$15,878,213	\$19,061,860	\$19,061,860	\$53,253,890	\$176,023,081
20	Interest															
21	Collection plus Interest	\$11,792,572	\$16,186,492	\$16,160,492	\$17,251,522	\$18,134,272	\$18,488,988	\$18,977,240	\$18,977,240	\$18,977,240	\$21,706,201	\$15,878,213	\$19,061,860	\$19,061,860	\$53,253,890	\$176,023,081
22																
23																