

ORDER NO. 19-212

ENTERED Jun 20 2019

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UE 219

In the Matter of

PACIFICORP, dba PACIFIC POWER,

Update to Schedule 199, Klamath Dam  
Removal Surcharge.

ORDER

DISPOSITION: STAFF'S RECOMMENDATION ADOPTED

At its public meeting on June 18, 2019, the Public Utility Commission of Oregon adopted Staff's recommendation in this matter. The Staff Report with the recommendation is attached as Appendix A.

BY THE COMMISSION:



A handwritten signature in blue ink, appearing to read "Nolan Moser".

**Nolan Moser**  
Chief Administrative Law Judge

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 18, 2019**

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

**DATE:** June 10, 2019

**TO:** Public Utility Commission

**FROM:** Sabrinna Soldavini

**THROUGH:** Jason Eisdorfer, John Crider, and Marianne Gardner **SIGNED**

**SUBJECT:** PACIFIC POWER: (Docket No. UE 219) Update 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). The maximum level of surcharges collected in a calendar year is limited

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to two percent of PacifiCorp's annual revenue requirement as determined in PacifiCorp's last 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 amount of the surcharges is calculated based on a schedule that will fund Oregon's share of the customer contribution by December 31, 2019. 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 a process for the ultimate removal of four dams<sup>2</sup> on the Klamath River (hereinafter Klamath Dams).

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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.

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

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). 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). 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.

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

<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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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.

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.

At the June 13, 2017, Regular Public Meeting, the Commission adopted the Staff recommendation to maintain the surcharge with no change. The Commission issued Order No. 17-217, adopting Staff's recommendation.

At the July 3, 2018, Regular Public Meeting, the Commission adopted the Staff recommendation to decrease the surcharge to comply with the 2 percent cap. The Commission issued Order No. 18-257, adopting Staff's recommendation.

#### *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

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

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completion of regulatory actions; and Phase 3, which consists of funding for the Facilities Removal through deconstruction and restoration. Since the Funding Agreement was executed, as of April 2019, \$38,756,348 has been disbursed directly to the KRRC for Phase 1 and Phase 2 activities.

*Current Review of Surcharge Rate Levels*

Based on the Treasury interest rate statements provided by Staff, the Company evaluated the Schedule 199 surcharge rates. The worksheet provided by the Company is attached as Attachment 1. With no change to the current level of surcharge rates, the total annual surcharge collection for calendar 2019 is projected to be \$18,941,727. This value does not exceed the two percent cap specified in ORS 757.736(3). The total surcharge collection (interest adjusted) projected at the proposed surcharge rate through December 31, 2019 is \$187,101,505. This value is calculated as the sum of the actual collection with interest from March 2010 to February 2019, and the forecast collection with interest from March 2019 through December 2019.<sup>9</sup>

Staff cautions that the projection is based on forecast collections and interest rate, so while the exact amount that will be collected by the end of the year is uncertain and subject to unknown future market conditions, Staff finds that the full amount to be collected from Oregon ratepayers, \$184 million, should be collected by the end of 2019. Schedule 199 currently provides, "The Commission and the Company will monitor collections under this tariff to ensure that it does not collect in excess of Oregon's share of the \$200 million maximum customer contribution."

Staff notes that the company will likely need to file with the Commission no later than 30 days before December 31, 2019 to cancel the tariff. In the event it becomes apparent to the Commission and the Company that the customer contribution has been fully funded before that date, the Company will need to make a filing to cancel the tariff at that time.

On May 28, 2019, representatives from interested parties held a conference call to review the surcharge. The parties included Staff, PacifiCorp, and the Oregon Department of Fish and Wildlife. At the May 28, 2019 conference call, Staff proposed to keep the surcharge rate at its current levels, and proposed to retain the current schedule under which the Oregon customer contribution is anticipated to be funded by the end of 2019. Staff also noted that the Company will likely need to make a filing to cancel Schedule 199 before December 31, 2019. No parties on the call objected.

The Company has reviewed this memo and has no areas of concern.

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<sup>9</sup> Attachment A, Klamath Dam Removal Surcharges.

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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.

Staff also finds that Oregon's share of the customer contribution is anticipated to have been collected by December 31, 2019 and recommends retaining the current schedule, with the expectation that PacifiCorp will make a filing to cancel the tariff before that date, or sooner, if it becomes apparent that the customer contribution has been collected in full.

**PROPOSED COMMISSION MOTION:**

Require PacifiCorp to maintain the current Klamath Dam Removal Surcharges.

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Attachment A

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

Line No.	Description	Sch No.	Actual Collections Mar-Dec 2010	Actual Collections 2011	Actual Collections 2012	Actual Collections 2013	Actual Collections 2014	Actual Collections 2015	Actual Collections 2016	Actual Collections 2017	Actual Collections 2018	Actual Collections Jan-Feb 2019	Total Actual Collections March 2010 -Feb 2019	Partial Forecast Mar-Dec Collections	Total Collections Actual plus Forecast
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(17)	
<b>Residential</b>															
1	Residential	4	\$5,078,272	\$7,389,998	\$7,341,033	\$7,722,702	\$7,804,117	\$7,703,782	\$7,984,350	\$9,022,274	\$8,352,830	\$1,805,566	\$70,204,925	\$6,583,600	\$76,788,524
2	<b>Total Residential</b>		\$5,078,272	\$7,389,998	\$7,341,033	\$7,722,702	\$7,804,117	\$7,703,782	\$7,984,350	\$9,022,274	\$8,352,830	\$1,805,566	\$70,204,925	\$6,583,600	\$76,788,524
<b>Commercial &amp; Industrial</b>															
3	Gen. Svc. < 31 kW	23	\$1,098,596	\$1,541,161	\$1,540,603	\$1,599,978	\$1,597,190	\$1,578,038	\$1,623,555	\$1,745,662	\$2,033,696	(\$36,750)	\$14,321,728	\$1,414,383	\$15,736,111
4	Gen. Svc. 31 - 200 kW	28	\$1,921,775	\$2,615,111	\$2,653,332	\$2,775,078	\$2,933,236	\$2,923,379	\$3,008,693	\$3,227,178	\$3,110,931	\$531,485	\$25,700,199	\$2,405,117	\$28,105,316
5	Gen. Svc. 201 - 999 kW	30	\$1,234,997	\$1,680,970	\$1,710,016	\$1,864,537	\$1,943,761	\$1,918,516	\$1,954,554	\$2,023,098	\$1,995,126	\$315,991	\$16,641,566	\$1,541,443	\$18,183,009
6	Large General Service >= 1,000 kW	48	\$1,999,914	\$2,778,591	\$2,907,734	\$3,228,705	\$3,491,098	\$3,494,724	\$3,258,780	\$3,583,165	\$3,709,758	\$498,331	\$28,950,801	\$3,377,936	\$32,328,736
7	Partial Req. Svc. >= 1,000 kW	47	\$152,122	\$144,621	\$58,223	\$62,239	\$78,099	\$79,474	\$368,510	\$175,491	\$54,162	\$6,728	\$1,179,669	\$49,763	\$1,229,432
8	Agricultural Pumping Service	41	\$223,060	\$228,933	\$254,505	\$326,552	\$339,101	\$328,718	\$332,612	\$313,563	\$313,443	\$2,145	\$2,662,632	\$328,440	\$2,991,072
9	<b>Total Commercial &amp; Industrial</b>		\$6,630,466	\$8,989,388	\$9,124,412	\$9,857,090	\$10,382,484	\$10,322,848	\$10,546,705	\$11,068,157	\$11,217,116	\$1,317,930	\$89,456,595	\$9,117,081	\$98,573,676
<b>Lighting</b>															
10	Outdoor Area Lighting Service	15	\$17,548	\$22,783	\$22,190	\$22,647	\$22,782	\$22,474	\$22,294	\$22,097	\$21,665	\$3,530	\$200,012	\$17,107	\$217,119
11	Street Lighting Service	50	\$13,809	\$17,623	\$17,049	\$17,078	\$16,261	\$15,477	\$15,527	\$15,512	\$15,188	\$2,487	\$146,010	\$13,414	\$159,424
12	Street Lighting Service HPS	51	\$42,740	\$57,717	\$58,610	\$61,157	\$63,447	\$63,489	\$63,108	\$64,567	\$63,993	\$10,823	\$549,651	\$51,791	\$601,442
13	Street Lighting Service	52	\$1,356	\$1,153	\$1,039	\$822	\$814	\$772	\$792	\$796	\$753	\$122	\$8,419	\$1,662	\$10,081
14	Street Lighting Service	53	\$7,999	\$11,123	\$11,023	\$10,921	\$11,675	\$11,540	\$11,394	\$11,452	\$14,540	\$2,451	\$104,119	\$12,023	\$116,142
15	Recreational Field Lighting	54	\$1,267	\$1,793	\$1,681	\$2,168	\$2,192	\$2,266	\$2,253	\$2,194	\$2,286	\$364	\$18,464	\$1,775	\$20,239
16	<b>Total Public Street Lighting</b>		\$84,719	\$112,193	\$111,592	\$114,793	\$117,171	\$116,017	\$115,368	\$116,619	\$118,424	\$19,777	\$1,026,675	\$97,772	\$1,124,447
17	<b>TOTAL</b>		\$11,793,457	\$16,491,579	\$16,577,037	\$17,694,584	\$18,303,773	\$18,142,647	\$18,646,423	\$20,207,050	\$19,688,371	\$3,143,274	\$160,688,194	\$15,798,453	\$176,486,647
18	Target Collection		\$12,795,272	\$16,160,492	\$16,160,492	\$17,251,552	\$18,334,272	\$18,408,988	\$18,987,245	\$19,054,696	\$19,030,712	\$3,189,870		\$15,922,765	
19	Over/(Under) Collection		(\$1,002,115)	\$331,087	\$416,545	\$443,032	(\$30,499)	(\$266,341)	(\$340,820)	\$1,152,354	\$657,658	(\$46,597)		(\$124,312)	
20	Interest		(708)	20,273	390,360	745,764	862,785	699,449	947,847	1,473,850	2,679,202	483,581		\$2,312,456	10,614,858
21	Collection plus Interest		\$11,792,749	\$16,511,852	\$16,967,398	\$18,440,349	\$19,166,557	\$18,842,096	\$19,594,270	\$21,680,900	\$22,367,572	\$3,626,854		\$18,110,909	\$187,101,505
22													Target Oregon Balance (w/interest)		\$184,000,000
23													Estimated Over/(Under) Amount		\$3,101,505