

ORDER NO. 20-371

ENTERED Oct 27 2020

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1917(2)

In the Matter of

PACIFICORP, dba PACIFIC POWER,

Application for Reauthorization to Approve
Deferred Accounting Related to the Federal
Tax Act.

ORDER

DISPOSITION: STAFF'S RECOMMENDATION ADOPTED

At its public meeting on October 20, 2020, 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:



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: October 20, 2020**

REGULAR CONSENT EFFECTIVE DATE December 31, 2020

DATE: October 6, 2020

TO: Public Utility Commission

FROM: John Fox

THROUGH: Bryan Conway and John Crider **SIGNED**

SUBJECT: PACIFIC POWER:
Docket No. UM 1917(2)
Application for Reauthorization to Approve Deferred Accounting Related to
the Federal Tax Act.

STAFF RECOMMENDATION:

Approve Pacific Power's (PacifiCorp or Company) Application for Reauthorization of Deferred Accounting Related to Federal Tax Act, docketed as UM 1917(2), for the twelve-month period beginning December 31, 2019, estimated to be \$70.5 million (Oregon-allocated) for 2020.

DISCUSSION:

Issue

Whether the Commission should approve PacifiCorp's Application for Reauthorization of Deferred Accounting Related to Federal Tax Act, for the twelve-month period beginning December 31, 2019, for later ratemaking treatment, estimated to be \$70.5 million for 2020.

Applicable Rule or Law

Beginning with the date of the Application, the Commission may approve the deferral of identifiable utility expenses or revenues, the recovery or refund of which the Commission finds should be deferred in order to minimize the frequency of rate changes for the fluctuation of rate levels or to match appropriately the costs borne by and benefits received by ratepayers. ORS 757.269(2)(e) and (4). Unless subject to an

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automatic adjustment clause under ORS 757.210(1), amounts deferred are allowed in rates to the extent authorized by the Commission in a proceeding under ORS 757.210 to change rates and upon review of the utility's earnings at the time of application to amortize the deferral. ORS 757.259(4); OAR 860-027-0300(9). The Commission's final determination on the amount of deferrals allowable in the rates of the utility is subject to a finding by the Commission that the amount was prudently incurred by the utility. ORS 757.259(5).

Analysis

Background

The Company's application in this docket, UM 1917(2), was filed on December 31, 2019. The Company estimates 2020 deferrals of Tax Act benefits totaling \$70.5 million, which includes current income tax expense benefits of \$46.7 million and excess deferred income tax (EDIT) benefits of \$23.8 million arising from protected property.

In Order No. 19-028, the Commission had previously approved an all-party settlement, which resolved the ratemaking treatment of Tax Act benefits from the date of enactment in 2017 through calendar year 2020.¹ It was agreed that current tax benefits for 2018 and 2019 would be returned to customers as a tariff rider while the method of return for 2020 current tax benefits and EDIT would be determined in future rate proceedings.

In Order No. 19-304, the Commission authorized the entire amount of unprotected EDIT and a portion of the EDIT arising from protected property to be applied and used as an offset of the undepreciated net book value of certain wind repowering projects.²

*2020 Current Income Tax Expense*³

The proposed deferral of \$46.7 million dollars agrees with the Commission order noted above. As this amount and the associated ratemaking treatment has been settled, no further discussion is necessary here. Details regarding how the \$46.7 million benefit is calculated are memorialized in the 2018 deferral order.⁴

¹ *In re PacifiCorp*, OPUC Docket No. UM 1985, Order No. 19-028 at 9 (Term Sheet for All-Party Settlement) and at 12 (2019 Estimated Federal Tax Impact Deferral and Amortization Table) (Jan. 29, 2019).

² *In re PacifiCorp*, OPUC Docket No. UE 352, Order No. 19-304 at 6 (Sept. 16, 2019).

³ Application at 5.

⁴ *In re PacifiCorp*, OPUC Docket No. UM 1917, Order No. 19-017 (Jan. 18, 2019).

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*2020 Protected Property EDIT Amortization w/ Gross-Up*⁵

The proposed deferral of \$23.8 million dollars is a point in time estimate as of the date of the application. Return of protected EDIT will occur over many years and the amount to be returned to ratepayers in any particular year is limited by IRS normalization rules. Although the total amount of protected EDIT tax benefits arose from passage of the tax act itself, final amounts due for return in any particular year will vary based on application of the Reverse South Georgia (RSM) methodology and cannot be predicted with certainty.⁶

Taxes in Current Rates

The income tax expense currently included in PacifiCorp's base rates was approved in its last general rate case (UE 263) and does not reflect any of the provisions of the Tax Act. Therefore, the Tax Act benefits are not currently reflected in PacifiCorp's base rates.

Pending Rate Case

On February 14, 2020, the Company filed a request for a general rate revision effective January 1, 2021. The filing includes a reduction in the statutory federal income tax rate from 35 percent to 21 percent, as well as amortization of the remaining deferred balances associated with the Tax Act. The exact amount of benefits and method of return to customers is currently being litigated and the proposed amounts thereof are reflected on the record in UE 374 and need not be repeated here.

As discussed above, a portion of the \$23.8 million protected EDIT deferral for 2020 was applied as an offset in Order No. 19-304. Approval of this application also pertains to the remainder of protected EDIT and \$46.7 million of current tax benefits for 2020 which are included in the rate case filing.⁷

Conclusion

Staff concludes the proposed tax benefits for 2020 are fair, just, and reasonable for the following reasons:

- As discussed above, the amounts included in the tax benefit calculation are consistent with the settlement agreement of the parties and the Commission's previous orders.⁸

⁵ Application at 5.

⁶ UE 374 – PAC/300, 26-29

⁷ UE 374 - PAC/307.

⁸ Order Nos. 19-017 and 19-028.

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- The tax benefit calculation, after inclusion of regulatory adjustments, is consistent with principles of ratemaking applied by the Commission.
- The Company has not proposed application of an earnings test under the provisions of ORS 757.259(5) and intends to return the full amount of tax benefits to ratepayers.

PROPOSED COMMISSION MOTION:

Approve PacifiCorp's Application for Reauthorization of Deferred Accounting Related to Federal Tax Act, docketed as UM 1917(2), for the twelve-month period beginning December 31, 2019 estimated to be \$70.5 million (Oregon-allocated) for 2020.

UM 1917(2) PacifiCorp 2019 TCJA Deferral.docx