

ORDER NO. 21-415

ENTERED Nov 17 2021

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 2161

In the Matter of

PACIFICORP, dba PACIFIC POWER,

Application for Approval of Deferred
Accounting of Deer Creek Mine Royalty
Payment Costs.

ORDER

DISPOSITION: STAFF'S RECOMMENDATION ADOPTED

At its public meeting on November 16, 2021, 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: November 16, 2021**

REGULAR CONSENT EFFECTIVE DATE _____ N/A _____

DATE: October 27, 2021

TO: Public Utility Commission

FROM: Heather Cohen

THROUGH: Bryan Conway, John Crider, and Matt Muldoon **SIGNED**

SUBJECT: PACIFIC POWER:
(Docket No. UM 2161)
Requests authorization of deferred accounting related to Deer Creek Mine Royalty Payment Costs.

STAFF RECOMMENDATION:

Staff recommends that the Commission approve Pacific Power's (PacifiCorp or Company) request to defer costs associated with Deer Creek Mine Royalty Payments incurred from the date of this application for a 12-month period ending March 19, 2022.

DISCUSSION:

Issue

Whether the Commission should approve the deferral of costs, for future amortization, related to the coal lease abandonment royalty costs.

Applicable rule and law

PacifiCorp makes this filing in accordance with ORS 757.259 and OAR 860-027-0300. ORS 757.259(2)(e) authorizes the Commission to allow a utility to defer, for later recovery in rates, expenses or revenues in order to minimize frequency of rate changes or to match appropriately the costs borne by and benefits received by customers.

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Analysis

Background

In this application, PacifiCorp seeks approval to defer, for later ratemaking treatment, actual coal lease abandonment royalty costs for its Deer Creek Mine operation. PacifiCorp states that it seeks this application out of an abundance of caution, given its understanding that Commission Order No. 20-473 provides for the continued deferral of royalty costs under the authorization granted in Docket No. UM 1712.

In Docket No. UM 1712, the Commission granted in part and denied in part PacifiCorp's request for approval to close the Deer Creek Mine and related transactions. In that case, the Commission authorized PacifiCorp to establish a deferred account to track the closure costs beginning on June 1, 2015, which PacifiCorp argues includes coal lease abandonment royalty costs.

In its 2020 general rate case (UE 374), PacifiCorp sought to recover costs to close the Deer Creek Mine and amortize closure costs of approximately \$61 million in the previously authorized Deer Creek Mine deferred account UM 1712. Included in these costs were approximately \$12 million related to estimated coal lease abandonment royalty costs. The royalty costs sought in the case were estimates based upon benchmarks established in the Federal Energy Regulatory Commission Code of Federal Regulations for non-arm's length sales transactions (i.e. captive mines).¹

In Order 20-473, the Commission directed the Company to defer these costs, as approved in Docket No. UM 1712, for inclusion in the next rate case since the Company had not demonstrated that its preliminary forecast of these costs should be included in rates. The Company does not have a specific timeline of when actual royalty obligations will be settled with the Office of Natural Resources Revenue (ONRR), which is part of the Department of the Interior.² Royalties owed on minerals extracted from federal lease areas are collected by the ONRR.³

Proposed Accounting

PacifiCorp proposes to record the deferral as a regulatory asset in FERC Account 182.3 (Other Regulatory Assets), crediting FERC Account 506 (Miscellaneous Steam Power Expenses). In the absence of a deferred accounting order, the costs would be recorded in FERC Account 506 (Miscellaneous Steam Power Expenses).

¹ AWEC/102, Mullins/13.

² Ibid.

³ Ibid.

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Estimate of Amounts

In Docket No. UE 374, PacifiCorp estimated the abandonment royalty payments to exceed \$12 million.

Discussion

Staff supports annual deferral of actual royalty obligations related to the Deer Creek Mine through UM 2161. Annual deferrals through UM 2161 allow for transparent tracking of these costs as they are incurred, and meet the requirements of ORS 757.259(2)(e). Because the Commission declined to include these costs in base rates as part of UE 374, but permitted PacifiCorp to defer these costs as approved in Docket No. UM 1712, Staff finds that the deferral should be granted. Staff further finds that PacifiCorp's application meets the requirements of OAR 860-027-0300. Amortization will be the subject of a future ratemaking proceeding, in which the prudence of costs incurred will be reviewed.

Information Related to Future Amortization

- Earnings Review – Pursuant to ORS 757.259(5), deferred amounts will be allowed in rates to the extent authorized by the Commission following review of the utility's earnings at the time of application to amortize the deferral.
- Prudence Review – Prior to amortization, a prudence review will be conducted to ensure all costs were prudently incurred.
- Sharing – This deferral is subject to sharing as determined by the Commission in a future ratemaking proceeding.
- Rate Spread/Design – The allocation basis for the prudently incurred costs will be discussed at the time of the amortization.
- Three Percent Test (ORS 757.259(6)) – The three percent test measures the annual overall average effect on customer rates resulting from deferral amortizations. The three percent test limits (exceptions at ORS 757.259(7) and (8)) the aggregated deferral amortizations during a 12-month period to no more than three percent of the utility's gross revenues for the preceding year.

Conclusion

For the reasons set forth above, Staff recommends the Commission approve PacifiCorp's application to defer royalty obligations related to Deer Creek Mine.

PROPOSED COMMISSION MOTION:

Approve PacifiCorp's request for authorization to defer costs associated with the Deer Creek Mine Royalty Payment Costs.