

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UM 2161(1)

In the Matter of

PACIFICORP, dba PACIFIC POWER,

Application for Reauthorization to Approve  
Deferred Accounting of Deer Creek Mine  
Royalty Payment Costs.

ORDER

**DISPOSITION: STAFF'S RECOMMENDATION ADOPTED**

At its public meeting on April 5, 2022, 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: April 5, 2022**

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

**DATE:** March 22, 2022

**TO:** Public Utility Commission

**FROM:** Heather Cohen

**THROUGH:** Bryan Conway, Marc Hellman, and Matt Muldoon **SIGNED**

**SUBJECT:** PACIFIC POWER:  
(Docket No. UM 2161(1))  
Requests reauthorization of deferred accounting related to Deer Creek  
Mine Royalty Payment Costs.

**STAFF RECOMMENDATION:**

Staff recommends that the Commission approve Pacific Power's (PacifiCorp, PAC, or Company) request for reauthorization 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, 2023.

**DISCUSSION:**

Issue

Whether the Commission should reauthorize 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.

Specific amounts eligible for deferred accounting treatment with interest authorized by the Commission include:

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 or the fluctuation of rate levels or to match appropriately the costs borne by and benefits received by ratepayers.

ORS 757.259(2)(e).

Under ORS 757.259, the Commission may authorize deferred accounting for later incorporation in rates. In OAR 860-027-0300(3) the Commission has set forth the requirements for the contents of deferred accounting applications. Applications for reauthorization must include that information along with a description and explanation of the entries in the deferred account to the date of the application for reauthorization and the reason for continuation of deferred accounting. OAR 860-027-0300(4). Notice of the application must be provided pursuant to OAR 860-027-0300(6).

Deferral of Deer Creek Mine royalty costs was originally granted by the Commission in Order No. 21-415, which authorized a 12-month deferral effective March 18, 2021.

### Analysis

#### *Background*

In this application, PacifiCorp seeks reauthorization to defer, for later ratemaking treatment, actual coal lease abandonment royalty costs for its Deer Creek Mine operation.

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).<sup>1</sup>

<sup>1</sup> AWEC/102, Mullins/13.

In Order No. 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.<sup>2</sup> Royalties owed on minerals extracted from federal lease areas are collected by the ONRR.<sup>3</sup> In its 2022 filing for a general rate case (UE 399), PacifiCorp stated it is not including the outstanding royalty costs and will continue to defer this amount until “amounts and payment timing can be accurately determined.”<sup>4</sup>

#### *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).

#### *Estimate of Amounts*

In Docket No. UE 374, PacifiCorp estimated the abandonment royalty payments to exceed \$12 million. However, nothing has been recorded in the deferred account as of yet.

#### *Discussion*

Staff supports annual deferral of actual royalty obligations related to the Deer Creek Mine through UM 2161(1). Staff has previously approved the same deferral for the previous year in 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 reauthorized. 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.

<sup>2</sup> Ibid.

<sup>3</sup> Ibid.

<sup>4</sup> PAC/1000/Cheung/36.

*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 reauthorization to defer costs associated with the Deer Creek Mine Royalty Payment Costs.