

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UM 1631

In the Matter of

PACIFICORP, dba PACIFIC POWER,

Application for Partial Waiver of OARs 860-021-0330(1)(a), 860-021-0405(3) and (5), and 860-021-0420.

ORDER

**DISPOSITION: STAFF'S RECOMMENDATION ADOPTED**

At its public meeting on November 1, 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:



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 1, 2022**

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

**DATE:** October 25, 2022

**TO:** Public Utility Commission

**FROM:** Michael Dougherty and Melissa Nottingham

**THROUGH:** Bryan Conway **SIGNED**

**SUBJECT:** PACIFIC POWER:  
Docket No. UM 1631  
Application for Partial Waiver of OARs 860-021-0330(1)(a),  
860-021-0405(3) and (5), and 860-021-0420.

**STAFF RECOMMENDATION:**

Staff recommends that the Commission approve PacifiCorp's (PAC or Company) request for partial waiver through December 31, 2022, or upon written notice of intent to comply to the Commission's Consumer Services Section, whichever occurs first, of the amendments effective September 30, 2022, to the following administrative rules:

- OAR 860-021-0330(1)(2)
- OAR 860-021-0405(3)(5)
- OAR 860-021-0420

**DISCUSSION:**

Issue:

Whether the Commission should approve PAC's request for a partial waiver of Division 21 rules.

Applicable Laws:

The Commission recently amended multiple rules in OAR Chapter 860, Division 21. The Commission's decision to adopt these changes was memorialized in Order No. 22-353 in Docket AR 653, with the revised rules effective on September 30, 2022.

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Per OAR 860-021-0005, the Commission may waive any of the rules in Division 21 for good cause upon written request or its own motion.

### Analysis

#### *Background*

On March 8, 2020, Governor Brown declared a statewide state of emergency due to the public health threat posed by the novel infectious coronavirus, COVID-19.<sup>1</sup> Several extensions of that order were issued.<sup>2</sup> On March 17, 2022, Governor Brown issued Executive Order (EO) 22-03,<sup>3</sup> which rescinded EO 20-03, EO 21-36,<sup>4</sup> and EO 21-29.<sup>5</sup>

On September 24, 2020, the Commission authorized Staff and the affected investor-owned energy utilities and stakeholders to execute a stipulation that was developed during the Commission's Investigation into the Effects of the COVID-19 Pandemic on Utility Customers.

During the timeframe between September 24, 2020, and October 23, 2020, Parties refined the Energy Term Sheet and Stipulated Agreement on terms and conditions to assist customers and utilities during the current COVID-19 pandemic and the aftermath of the pandemic.

At its public meeting on November 3, 2020, the Commission approved the UM 2114 Stipulated Agreement. See Order No. 20-401, <https://apps.puc.state.or.us/orders/2020ords/20-401.pdf>.

At the Commission's December 16, 2021, UM 2114 Special Public Meeting, Commission Staff requested to open a rulemaking docket to begin an informal phase of reviewing OARs Chapter 860, Division 21 to strengthen customer protections concerning disconnections. The Commission issued Order No. 21-483 adopting Staff's recommendation and opening this docket, AR 653.

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<sup>1</sup> EO 20-03 (March 8, 2020), [https://www.oregon.gov/gov/eo/eo\\_20-03.pdf](https://www.oregon.gov/gov/eo/eo_20-03.pdf).

<sup>2</sup> EO 20-24 (May 1, 2020); EO 20-30 (June 30, 2020); EO 20-38 (September 1, 2020); EO 20-67 (December 17, 2020); EO 21-05 (February 25, 2021); EO 21-10 (April 29, 2021); EO 21-15 (June 25, 2021); and EO 21-36 (December 21, 2022).

<sup>3</sup> EO 22-03, [https://www.oregon.gov/gov/eo/eo\\_22-03.pdf](https://www.oregon.gov/gov/eo/eo_22-03.pdf).

<sup>4</sup> Extension of EO 20-03 that was issued December 21, 2022, [https://www.oregon.gov/gov/eo/eo\\_21-36.pdf](https://www.oregon.gov/gov/eo/eo_21-36.pdf).

<sup>5</sup> COVID-19 Vaccination Requirement for State Executive Branch, <https://www.oregon.gov/gov/eo/eo-21-29.pdf>.

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On June 10, 2022, following an informal collaborative process between Staff, community advocates and the investor-owned utilities, the Commission issued Order No. 22-214, approving Staff's recommendation to open the AR 653 rulemaking docket. AR 653 began the formal rulemaking process to consider permanent changes to Division 21 rules concerning protections to residential customers and low-income customers.

The Commission held two rulemaking hearings on July 21, 2022, and September 1, 2022, and requested several rounds of comments, concluding on September 7, 2022. Commission Order No. 22-353 was issued on September 29, 2022, adopting revisions to the existing Division 21 rules effective upon filing with Secretary of State (September 30, 2022).

### Analysis

PAC requests that the Commission issue an order authorizing the temporary waiver of the following rules of Chapter 860, Division 21 adopted in Docket No. AR 653 and by Commission Order No. 22-353:

1. OAR 860-021-0330(1)(2), Reconnection Fee for Utility Service, which requires that the Company not impose initial reconnection fees to low-income residential customers, as defined in OAR 860-021-0180.
2. OAR 860-021-0405(3)(5), Notice of Pending Disconnection of Residential Electric or Gas Utility Service; directing the Company to provide written notice at least 20 days.
3. OAR 860-021-0420, Field Visit Charge, which requires that the Company waive the first field visit charge within a 12-month window to low-income residential customers.

While the Company supports the changes to Division 21 rules, the challenges of implementation of three of the revised rules, as listed above, has impacted its ability to comply with the revisions on their effective date.

PAC states the current billing system assessment of reconnect and field visit fees are automatically charged based on when the work activity occurs and not on the customer class. The current billing system does not differentiate between residential and nonresidential customers. To change the frequency of when the fees are charged or not charged to low-income customer's account, the current billing system requires modification to properly identify when the fees should be charged and subsequent system testing. The Company is requesting a waiver of OAR 860-021-0330(1)(2) and OAR 860-021-0420 through December 31, 2022, to ensure the system modifications

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are working in alignment with the requirement of the rules. The Company commits to additional training and manual processes to ensure customers are not harmed by the waiver.

For similar reasons, the Company is requesting temporary waiver of OAR 860-021-0405(3)(5). Extending the timeline from 15 to 20 days for residential customers will require the company to make similar system modifications and testing.

### Conclusion

OAR 860-021-0005 states that the Commission may grant a waiver of any of the Division 21 rules for good cause shown. Staff believes that PAC has demonstrated good cause for temporary waivers of OAR 860-021-0330(1)(2), OAR 860-021-0405(3)(5), and OAR 860-021-0420 until December 31, 2022. An implementation date of January 1, 2023, is a reasonable timeline for the Company to configure and test system changes to comply with the rules changes.

PAC states a plan is in place to mitigate harm to customers. These steps include agreeing customer service agents manually waiving fees at the time the orders for reconnection or a field visit charge are issues. The Company will also be running reports to catch any missed fees from the manual process.<sup>6</sup>

Staff recommends that the Commission approve PAC's petition for temporary waiver of the amended portions of OAR Division 021, but allow for earlier application of the amended rules upon written notice to the Commission.

### **PROPOSED COMMISSION MOTION:**

Approve PacifiCorp's (PAC or Company) request for partial waiver through December 31, 2022, of the amendments effective September 30, 2022, or upon written notice of intent to comply to the Commission's Consumer Services Section, whichever occurs first, to the following administrative rules:

- OAR 860-021-0330(1)(2)
- OAR 860-021-405 (3)(5)
- OAR 860-021-0420

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<sup>6</sup> Informal data request to Company on October 21, 2022.