ORDER NO. 23-148

ENTERED Apr 21 2023

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 2013, UM 2013(1)

In the Matter of PACIFICORP, dba PACIFIC POWER, Application for Deferred Accounting Related to Wildfire Risk Mitigation Measures (UM 2013), and Application for Reauthorization to Defer Costs Related to Wildfire Risk Mitigation Measures (UM 2013(1)).	ORDER

DISPOSITION: STAFF'S RECOMMENDATION ADOPTED

At its public meeting on April 18, 2023, 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.

ITEM NO. RA3

PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: April 18, 2023

REGULAR __X__ **CONSENT** ____ **EFFECTIVE DATE** ______N/A______

DATE: March 27, 2023

TO: Public Utility Commission

FROM: Kathy Zarate and Stephanie Andrus

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

SUBJECT: PACIFIC POWER:
(Docket Nos. UM 2013 and UM 2013(1))
Reauthorization of deferred accounting for costs related to Wildfire Risk Mitigation Measures.

STAFF RECOMMENDATION:

Deny Pacific Power's (PacifiCorp, PAC, or Company) request for approval of deferral of the incremental costs associated with implementing new wildfire risk mitigation measures for the 12-month period beginning May 14, 2019, and ending May 13, 2020, and the approximate seven-month period beginning May 14, 2020, and ending December 31, 2020.

DISCUSSION:

Issue

Whether the Commission should approve Pacific Power's requests for authorization and reauthorization to defer costs associated with implementing wildfire risk mitigation measures.

Applicable Law

In accordance with ORS 757.259, utilities may seek approval to defer amounts for later inclusion in rates to minimize the frequency of rate changes or to appropriately match customer benefits and costs. OAR 860-027-0300(4) requires the utility to provide certain information in an application to defer, such as reason for the deferral, estimated amount of the deferral, etc.

Analysis

Background

On May 14, 2019, PacifiCorp filed its initial application to defer costs of wildfire mitigation measures not otherwise recovered in PacifiCorp's approved revenue requirement. At the time of the application, PacifiCorp estimated the deferral would be for approximately $4.8 million, $4 million of which would be spent on clearing vegetation around utility poles in fire high consequence areas. PacifiCorp filed a second application for deferral on May 14, 2020. In that application, PacifiCorp estimated it would incur approximately $27.4 million during the 12-month deferral period for inspection and correction of found fire-threat conditions, advanced system hardening and resiliency, expanded automation and protection, improved wildfire detection, and enhanced event response capacity, and vegetation management activities.

Ultimately, PacifiCorp deferred $5.1 million during the first deferral period (May 14, 2019 to May 13, 2020), and $2.8 million during the second deferral period, which was truncated to seven months, from May 14, 2020 to December 31, 2020. Treatment of PacifiCorp's wildfire mitigation related costs incurred between January 1, 2021, and May 14, 2021, have been addressed in other dockets and are not at issue.[1]

The Commission applies a two-pronged analysis to determine whether to approve requests for deferral filed pursuant to ORS 757.259(e). First, the Commission determines whether the request satisfies the statutory criteria in that the deferral either minimizes the frequency or level of rate changes or appropriately matches the costs and

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[1] Wildfire mitigation related costs incurred subsequent to December 31, 2021, are recovered pursuant to the ratemaking determinations made in PacifiCorp's 2020 General Rate Case, Docket No. UE 374 and 2022 General Rate Case, Docket No. UE 400. In Docket No. UE 374, PacifiCorp proposed a Wildfire Cost Recovery Mechanism to recover capital expenditures and O&M related to wildfire mitigation. The Commission ultimately adopted a mechanism under which PacifiCorp's revenue requirement included $30 million for wildfire rates and was allowed opportunity to recover incremental amounts through a performance-based mechanism.[1]

Since the Commission's order in Docket No. UE 374, legislation (Senate Bill 762) adopted in 2021 and codified at ORS 757.960, *et. seq.,* established requirements for utilities and the Commission related to wildfire mitigation planning, activities, and cost recovery. Under ORS 757.963 and implementing regulations, PacifiCorp is required to develop and file for Commission review a wildfire protection plan (WPP). Under ORS 757.963(8), the reasonable costs to develop, implement or operate a wildfire protection plan are recoverable in the rates of the public utility from all customers through a filing under ORS 757.210 to 757.220.

In Docket No. UE 399, the Commission approved a stipulation under which $19.7 million of wildfire mitigation expense and $34.9 million for the revenue requirement impact of wildfire mitigation capital investments is included in PacifiCorp's base rates and incremental wildfire mitigation expense and capital investments are subject to recovery through a wildfire mitigation cost recovery mechanism. The parameters of the wildfire mitigation cost recovery mechanism are currently at issue in Docket No. UE 407.[1]

benefits received by ratepayers.[2] If the deferral request satisfies the statutory criteria, the Commission reviews to determine whether the deferral satisfies its discretionary criteria by considering two interrelated factors, the type of event that caused the deferral and the magnitude of the event's effect.[3]

With respect to the type of event causing the deferral, the Commission draws a distinction between risks that can be predicted to occur as part of the normal course of events, (stochastic risks), and risks that are not susceptible to prediction and quantification (scenario risks). Risks that are reasonably predictable and quantifiable are generally not appropriate for deferral unless the second consideration, the magnitude of the financial impact of the event on the utility, is substantial enough to warrant deferral.[4] If the event was neither modeled nor foreseen, or if there are extenuating circumstances that were not foreseeable (a "scenario event"), the magnitude standard is lower—it must be *material*.[5]

The need for enhanced wildfire mitigation measures such as increased vegetation management around fire poles (the primary expenditure in the first deferral) and other mitigation measures is foreseeable and is a stochastic risk. In fact, since PacifiCorp began ramping up its wildfire mitigation efforts, the Commission has approved two different automatic adjustment clauses for the recovery of wildfire mitigation costs addressing heightened wildfire risk. Meaning, the need for increased wildfire mitigation measures is foreseeable and quantifiable; and costs for the measures are forecasted and collected in rates.

Staff anticipates that PacifiCorp will assert that climate change fundamentally altered the risk of devastating wildfires in the years before it filed its deferral application, and this increase was unforeseen when its previous rates were established in 2012. However, this argument is not supported by PacifiCorp's May 14, 2019 application to defer. In its May 14, 2019 filing, PacifiCorp states its decision to implement additional wildfire mitigation measures was informed by a multi-year rulemaking by the California Public Utility Commission initiated after a "number of devastating fires that spread across areas of southern California in 2007."[6] Given its knowledge of the increasing risk, PacifiCorp could have filed a rate case in Oregon to incorporate costs of wildfire

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[2] *In the Matter of Public Utility Commission of Oregon Staff Request to Open an Investigation Related to Deferred Accounting*, Docket No. UM 1147, Order No. 05-1070, p. 2, (October 5, 2005).
[3] Id., pp. 2-3.
[4] Id. p. 3.
[5] Id., *See also, In the Matter of Public Utility Commission of Oregon Staff Request to Open an Investigation Related to Deferred Accounting*, Docket No. UM 1147, Order No. 05-1070, p. 7, (October 5, 2005).
[6] UM 2013 Application for Deferred Accounting for Costs Related to Wildfire Risk Mitigation Measures, p. 2 (May 14, 2019).

mitigation measures into its revenue requirement prior to 2019. PacifiCorp chose to not file a rate case.

The Commission has previously quantified "substantial" and ""material" harm to a utility and applied those quantifications to stochastic and scenario events. In Order No. 04-108, entered in UM 1071, the Commission articulated the distinction between stochastic and scenario risks, and explained that a 250 basis points deadband on ROE was also useful as a measuring stick to determine whether the financial impact of a stochastic event is substantial enough to warrant deferral in the first place:

> We find that the measure of normal risk applied to a scenario event should be contextual, reflecting the pertinent range of risk, and considering whether the scenario event is isolated, or combined with another scenario event or other extenuating circumstances.[7]

In denying a 2016 application for deferred accounting specifically related to pension costs, the Commission stated, "[t]he impact of the excess FAS 87 expense on [Portland General Electric Company's] earnings was 18 basis points in 2012 and 86 basis points in 2013, well within the bounds of acceptable risk between rate cases. Further, the deferral amounts represent less than one percent of PGE's annual revenues for the years at issue."[8]

More recently, the Commission denied PGE's application to defer certain 2017 storm costs concluding that the financial impact of 36 basis points on PGE's ROE is neither substantial nor material.[9]

Based on the Commission's precedent, the financial impact of the amounts at issue in PacifiCorp's two deferral applications is not sufficient to warrant deferral, whether the underlying risk is classified as stochastic or scenarios. The financial impact of the $5.1 million at issue in the first application is approximately 27.1 basis points of authorized ROE if measured against 2019 revenues and approximately 22.7 basis points of authorized ROE if measured against 2020 revenues. The financial impact of the $2.8 million dollars at issue in the second application is approximately 12.5 basis points of authorized ROE when measured against 2020 revenues. These amounts are

[7] *In the Matter of Portland General Electric Company Application for Deferral Accounting of Excess Power Costs Due to Plant Outage*, Docket No. 1234, Order No. 07-049, p. 19 (February 12, 2007).
[8] In the Matter of Portland General Electric Company Application for Deferral Accounting of Excess Pension Costs and Carrying Costs on Cash Contributions, Docket No. UM 1623, Order No. 16-257, p. 4 (July 7, 2016).
[9] *In the Matter of Portland General Electric Company Application for Deferral of Storm-Related Restoration Costs*, Docket No. UM 1817, Order No. 19-274 at 12-13 (Aug 19, 2019).

well within the range of reasonable risk a utility can be expected to bear between rate cases.

Staff anticipates that PacifiCorp will argue that deferral of the amounts at issue is appropriate to incentivize appropriate utility behavior. Staff agrees that incenting utility behavior can be an appropriate use of the Commission's deferral authority. However, Staff does not agree that it is appropriate in these circumstances. The expenses at issue are for activities that are fundamental to PacifiCorp's statutory obligation to provide safe and adequate service. It should not be necessary to employ extraordinary ratemaking processes to incent PacifiCorp to spend money for what PacifiCorp believes to be necessary for an appropriate level of safety.

PacifiCorp's Position
Staff contacted PacifiCorp to discuss the two filings and met with PacifiCorp to discuss the filing. On January 30, 2023, Staff met with PacifiCorp and explained Staff was inclined to recommend denying the deferral, sharing Staff's reasoning, and seeking additional information on the actual recorded deferral amounts before making a final decision. The Company provided the deferral amounts in an email dated February 13, and Staff and PacifiCorp met again on February 22, 2023. At that second meeting, Staff and PacifiCorp discussed whether the applications for deferral satisfied the Commission's discretionary criteria in light of prior Commission orders. Ultimately, Staff and PacifiCorp did not come to agreement.

Staff shared a draft copy of this memo on March 17, 2023, to provide PacifiCorp an opportunity to prepare its comments on this subject matter. Drafts were also sent to AWEC and CUB.

<u>Conclusion</u>

The financial impact of the deferrals is not sufficient to warrant deferral whether the underlying is classified as stochastic risk or scenario risk. Accordingly, Staff recommends denial of the requests.

PROPOSED COMMISSION MOTION:

Deny Pacific Power's (PacifiCorp, PAC, or Company) request for approval of deferral of the incremental costs associated with implementing new wildfire risk mitigation measures for the 12-month period beginning May 14, 2019, and ending May 13, 2020, and the approximately seven-month period beginning May 14, 2020, and ending December 31, 2020.

PAC UM 2013(1) Wildfire Risk Mitigation Measures Deferral