

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UE 407, UE 412
(Not Consolidated)

In the Matters of

PACIFICORP, dba PACIFIC POWER,

Application for Approval of an Automatic
Adjustment Clause for Recovery of Costs
Associated with the Company's Wildfire
Protection Plan (UE 407); and

PORTLAND GENERAL ELECTRIC
COMPANY,

Advice No. 22-18, New Schedule 151,
Wildfire Mitigation Cost Recovery
(UE 412).

ORDER

DISPOSITION: STIPULATIONS ADOPTED

I. SUMMARY

In these proceedings, we are asked to consider similar stipulations from PacifiCorp, dba Pacific Power, and Portland General Electric Company. Each presents an Automatic Adjustment Clause (AAC) that would be used to recover wildfire mitigation costs—both capital costs and operation and maintenance (O&M). The stipulations also prohibit use of performance-based rate mechanisms or earnings tests for these costs while the stipulations are in effect. The Oregon Citizens' Utility Board (CUB) opposes both stipulations, arguing that an earnings test should be imposed.

We adopt both stipulations but with the proviso that they should be revisited at a Special Public Meeting in three years' time. At that meeting, we will inquire into whether the AACs have allowed us adequate opportunity to review prudence and reasonableness, which requires us to determine whether utilities have sufficiently disciplined and optimized wildfire mitigation spending. If we have concerns, we may at that time direct parties to file proposals to enhance our review, including through tailored performance-based mechanisms or earnings tests.

II. BACKGROUND

A. Procedural History

Both cases resolved in this order proceeded along similar lines. PacifiCorp initiated docket UE 407 by filing an AAC tariff on July 12, 2022. The new tariff was suspended for the maximum amount of time allowed by statute on July 19, 2022.¹ A pre-hearing conference was held on August 2, 2022, which set a schedule for the remainder of the proceeding. CUB and the Alliance of Western Energy Consumers (AWEC) timely intervened in this proceeding and were granted party status.²

On December 29, 2022, PacifiCorp, Commission Staff, and AWEC filed a stipulation, which we consider in this order. CUB opposed the stipulation on the grounds discussed below. An evidentiary hearing was held on February 16, 2023, and an oral argument was held on April 10, 2023.

PGE filed its AAC in docket UE 412 on August 19, 2023, and the tariff filing was suspended for the maximum period allowed by statute on September 7, 2022.³ A pre-hearing conference was held on September 29, 2022, setting a schedule and again, CUB and AWEC were timely intervenors and were granted party status.

PGE, Staff, and AWEC filed the stipulation that is the subject of this order on January 13, 2023. CUB opposed the stipulation. An evidentiary hearing was not held, and oral argument was held on April 10, 2023.

B. PacifiCorp's Stipulated AAC

PacifiCorp's stipulation⁴ provides for an AAC for all "prudent capital investments under the" Wildfire Protection Plan (WPP) "after the rate effective date of the most recent rate case," which was January 1, 2023.⁵

The AAC will also cover ongoing O&M for wildfire mitigation-related activities under the WPP subject to a prudence review. Section 16 of the stipulation provides that PacifiCorp will make an annual filing providing "detailed information that can be used to identify that the costs included in the mechanism are incremental to costs included for

¹ Docket No. UE 407, Order No. 22-274 (July 21, 2022).

² CUB is entitled to and was granted party status pursuant to statute.

³ Docket No. UE 412, Order No. 22-323 (Sept. 7, 2022).

⁴ For ease of distinguishing between the two stipulations, we will refer to them here as "PacifiCorp's stipulation" and "PGE's stipulation" or "the PacifiCorp stipulation" and "the PGE stipulation."

⁵ See *In the Matter of PacifiCorp, dba Pacific Power, Request for a General Rate Revision*, Docket No. UE 399, Order No. 22-491 (Dec. 16, 2022).

recovery in a general rate case or Schedule 94, the vegetation management mechanism.”⁶ PacifiCorp will file for its projected wildfire related O&M activities each year and then that will be trued up against actual costs in a balancing account in the subsequent 12-month period.

Rates will be effective each year approximately 120 days after PacifiCorp submits its annual filing, currently anticipated to be on July 1 of each year. That annual filing must contain:

- (a) A detailed accounting comparing the amounts spent relative to its WPP budget;
- (b) Invoice level data detailing non-labor O&M using the same format as Staff Standard Data Request 57;
- (c) A project-level itemized budget of WPP investments and costs in each annual filing; and
- (d) A detailed reconciliation between the budget and actual expenditures, by project, in each annual filing.

The stipulation specifically provides that there will be no performance-based rate mechanism or earnings test applied to the recovery of costs. Parties are prohibited from seeking changes to this mechanism that would have an effective date prior to July 1, 2025.

C. PGE’s Stipulated AAC

PGE’s stipulation is substantively similar, but not identical to PacifiCorp’s stipulation. As with PacifiCorp, it provides for an AAC for all wildfire mitigation-related O&M and capital costs. It also provides that prior to PGE’s next rate case, which has since been filed in docket UE 416, only O&M incremental to current base rates and capital costs will be included.

PGE’s stipulation also provides for certain information to be provided with each annual filing, in particular:

- (a) Transactional level data detailing non-labor O&M using the same format as Staff Standard Data Request 57;
- (b) A comparison of WMP budget against actual expenditures at the program level; and
- (c) Forecasts of expenditures at the program level.

⁶ Docket UE 407, Stipulation at 4 (Dec. 9, 2022).

Like PacifiCorp, the PGE stipulation states that no performance-based rate mechanism or earnings test will be included.

The PGE stipulation states that its AAC “will be in place for no less than three years after which time any party to the UE 412 proceeding can propose changes to the mechanism.”⁷

D. CUB’s Opposition to Both Stipulations

CUB opposed both stipulations on the same grounds, arguing that they should only be accepted with an earnings test imposed on the annual true-up, set at the relevant company’s authorized ROE. CUB’s principal argument is that the settlement cannot be assured to result in just and reasonable rates without the addition of an earnings test.

E. Standard of Review

Under OAR 860-001-0350, the Commission may adopt, reject, or propose to modify a stipulation. If the Commission proposes to modify a stipulation, the Commission must explain the decision and provide the parties sufficient opportunity on the record to present evidence and argument to support the stipulation.

We review stipulations to determine whether they ultimately result in fair, reasonable, and just rates. A party may challenge a settlement by presenting evidence that the overall settlement results in something that is not compatible with a just and reasonable outcome. Where a party opposes a settlement, we will review the issues pursued by that party, and consider whether the information and argument submitted by the party, which may be technical, legal, or policy information and argument, suggests that the settlement is not in the public interest, will not produce rates that are just and reasonable, or otherwise is not in accordance with the law. To support the adoption of a settlement, the stipulating parties must present evidence that the stipulation is in accord with the public interest, and results in just and reasonable rates.

III. RESOLUTION

Having considered the stipulations in this proceeding, we determine that they are generally in accord with the public interest and will result in just and reasonable rates. Therefore, we adopt them with one proviso. The parties to the stipulations will be required to report to the Commission at a Special Public Meeting in May 2026, on operation of the stipulations to date. At that time, the Commission may choose to leave

⁷ Docket UE 412, Stipulation at 4 (Jan. 13, 2023).

the stipulations in place or to order the utilities to come back with new tariff filings that propose a different treatment of wildfire mitigation costs.

We require parties to return at a time certain because, although we find the stipulations to be in the public interest at this time, we are not persuaded that an AAC that prohibits all performance-based rate mechanisms is sufficient to ensure cost-effective risk mitigation or to discipline and optimize spend over time, both things we determine we must consider in order to find expenses and investments reasonable and prudent. We appreciate the information provided by the stipulating parties in responses to bench requests and at hearing regarding how prudence review will be conducted over the course of each wildfire mitigation plan and AAC cycle. However, we are also conscious that the wildfire mitigation plans may not contain all relevant planning information and that comparing projected spend to actual spend is not sufficient to determine whether cost-effective solutions were chosen and then actually implemented. Thus, in our minds, it is an open question whether the AACs as stipulated leave sufficient time and room to conduct adequate prudence review.

While we decline to implement an earnings test at this time, we agree with CUB that we have the authority to do so. We expect that when we review three years of data in May 2026, it may show more clearly metrics that we may wish to use in a ratemaking mechanism to accomplish our review of the utility's performance in delivering reasonable and prudent mitigation, or the data may show that the AACs should be altered in other ways to ensure that spending is optimized appropriately.

We appreciate CUB's position that a utility's rates continue to be just and reasonable if, overall, they allow the utility to cover its expenses and investment costs while earning a rate of return consistent with that authorized in its last rate case. However, it is also well established that there is not one just and reasonable rate but rather a range of just and reasonable rates.⁸ Therefore, we do not think an earnings test is mandatory in this case. The record does not show that PGE or PacifiCorp are likely to over-recover without one such that their rates will become inherently unjust and unreasonable. And because we will be doing reasonableness and prudence review on costs recovered under the AAC, the Commission retains authority to discipline costs where over-spending occurs.

We also note that an important part of regulation is to examine the incentives—both positive and perverse—that may be created by our rate structure. Thus, we believe more consideration may ultimately need to be given to whether some categories of wildfire spending may need to be incentivized in particular ways or whether some perverse incentives may need to be avoided. Currently, we accept the stipulation agreed to by the

⁸ *FPC v Hope Nat. Gas Co.*, 310 US 591, 621 (1944).

majority of parties, however, include the three-year examination provision to ensure that the incentives of the AACs are not misaligned.

We retain the authority under Senate Bill 762 to impose an earnings test or performance-based rate mechanisms. That legislation requires use of an AAC or other mechanism to allow timely recovery of all prudent and reasonable costs. As CUB has argued, an earnings test does not interfere with the ability of the parties to recover their costs and instead merely shows that they have not over-earned. And performance-based rate mechanisms are a way in which the Commission can ensure that costs are prudent and reasonable—*i.e.*, that the money that the utilities are spending does what they purport it does.

Thus, we have the authority to require the utilities to file new tariffs in three years as well as to leave these tariffs in place should we find them to be operating appropriately. We anticipate making a decision about these options at the Public Meeting where the stipulating parties are to report on the performance of these mechanisms; we intend that the issues will be vetted by the parties prior to the Public Meeting, so that we may hear informed perspectives from all about how to proceed at that time.

In making this decision, we are conscious that our Wildfire Mitigation Plan process is relatively new and still developing. As a result, we expect that Staff reviewing those plans are still learning from that ongoing process and, in particular, that there is additional data to be gleaned on how best to judge the success of those plans and their implementation. We suspect that the AACs we approve today will not, ultimately, be approved on a permanent and ongoing basis; however, we also believe it is appropriate to defer that decision in order to further refine our wildfire planning process.

IV. ORDER

IT IS ORDERED that:

1. The stipulation in docket UE 407 between PacifiCorp, dba Pacific Power, Alliance of Western Energy Consumers, and Staff of the Public Utility Commission of Oregon, attached as Appendix A, is adopted, subject to the condition that the stipulating parties appear at a Public Meeting to report on the implementation of this stipulation no later than May 28, 2026.
2. Advice No. 22-009, filed PacifiCorp, dba Pacific Power, is permanently suspended.

3. PacifiCorp, dba Pacific Power, must file tariff sheets in compliance with this order by 3:00 p.m. on May 17, 2023.
4. The stipulation in docket UE 412 between Portland General Electric Company, Alliance of Western Energy Consumers, and Staff of the Public Utility Commission of Oregon, attached as Appendix B, is adopted, subject to the condition that the stipulating parties appear at a Public Meeting to report on the implementation of this stipulation no later than May 28, 2026.
5. Advice No. 22-18, New Schedule 151, filed by Portland General Electric Company is permanently suspended.
6. Portland General Electric Company must file tariff sheets in compliance with this order by 3:00 p.m. on May 17, 2023.

Made, entered, and effective May 10 2023.



Megan W. Decker
Chair



Letha Tawney
Commissioner



Mark R. Thompson
Commissioner



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 Court of Appeals in compliance with ORS 183.480 through 183.484.

Commissioner Tawney Concurring:

I concur in the opinion above. I write separately to note that the process in this case has not permitted a full exploration of the challenges related to determining whether a utility's spending is reasonable or prudent when an Automatic Adjustment Clause (AAC) is utilized to recover costs associated with adapting to an emerging risk—in this case, wildfire. When evaluating whether these AACs have resulted in just and reasonable rates or are likely to continue to do so beyond May of 2026, several issues are important to consider.

In light of the devastating impacts of wildfire, it is important to be clear that reviewing whether the AACs are effectively ensuring utilities are cost efficiently reducing the risk of ignition does not imply that proactively addressing emerging risks is questionable. Proactive risk management, particularly in a cost-efficient manner, is urgent given the many strains a changing climate is putting on the essential services that communities rely on.

Incentives to Manage Emerging Risks

I am concerned that awarding favorable cost recovery to wildfire risk reduction activities could create perverse incentives that dilute the prioritization of holistic, cost-efficient risk reduction. It may also shift utility expectations regarding proactive risk management in a changing climate.

Favorable rate treatment for wildfire risk reduction may encourage the prioritization of spending on ignition risk reduction to the detriment of other risk reduction projects that address other high consequence outcomes for communities but have less favorable cost recovery. The utility may be incentivized to find that standard operations and maintenance (O&M) expenses that have always been necessary for safe operations are now wildfire expenses that can gain favorable ratemaking treatment and avoid the usual discipline on cost efficiency created through traditional ratemaking. It also ignores the significant incentive utilities already have to reduce the risks wildfire ignitions could create for shareholders—an incentive that is generally appropriate and accommodated in standard ratemaking.

Beyond the specific incentives that favorable cost recovery creates, I am concerned this approach creates the expectation that addressing other emerging risks must also be incentivized. Managing emerging risks, new information, or changes to conditions on the ground today or those anticipated in the future remains a core element of the utilities' business and the obligation they incur in exchange for a franchise and a reasonable return. It is already reflected in the rate of return on investment incorporated into their

rates. This Commission's use of forward-looking test years provides the opportunity to recover novel expenses within the traditional ratemaking approach, suggesting we expect emerging risk to be addressed as standard course of business.

In my view, in order to run a safe utility in the face of a changing climate, the utilities need to be actively drawing from the best climate modeling available to them and adjusting their business to prepare. Some risks related to extreme weather are difficult to predict but many risks are foreseeable. For example, there may be detailed forecasting of evolving tree mortality along utility rights of way at the intersection of modeling of tree stand lifespan based on age and density under future climate scenarios and emerging evidence of increased tree mortality in some Oregon forests. This suggests evolving tree mortality patterns are at least somewhat foreseeable. Incorporating adaptation to climate impacts in business plans and cost structures is not extraordinary in 2023. It is essential to every business and infrastructure manager, regulated electric utilities included.

Cost-Efficient Risk Reduction

Returning to wildfire ignition risk in particular, these AACs do not address the challenges inherent in determining prudence and incentivizing cost-efficient risk reduction. This record focuses narrowly on a few years of anticipated spending and so our decision does also. However, I observe the enormous rate pressure mounting in California for relatively limited reduction in risk. An AAC that does not incentivize or appropriately discipline spend for cost-efficiency may not be able to address prudence and thus may not result in just and reasonable rates.

Beyond the potential perverse incentives described above, there are several specific challenges with determining the reasonableness or prudence of wildfire ignition risk mitigation.

1. The AAC does not mitigate the incentive utilities have to select capital projects rather than operations and maintenance expenses. This could impact the projects or technologies utilities prioritize in ways that are difficult to determine in the relatively brief annual reviews.
2. The scale of the projects proposed is more akin to maintenance of the distribution system, which the Commission generally considers at a programmatic level and not a line-by-line level. However, effective risk reduction may require a detailed analysis of where projects were deployed and which areas were prioritized.

Much of the emerging best practices or new technologies have limited evidence of effectiveness and thus the traditional approaches to demonstrating prudence or reasonableness are often unavailable. For example, utilities must track the performance

of new technologies or solutions and change course, mid-implementation, if those solutions are not effectively reducing risk. Any AAC should incentivize that observation and adaptation cycle. The current AACs instead raise the risk that once a multi-year program is approved in year one it may not face close scrutiny in future years or be required to demonstrate its effectiveness.

Performance based ratemaking approaches to determine whether expenses were reasonable and prudent are well suited to managing these challenges and encouraging cost-efficient risk reduction.

Just and reasonable rates in light of emerging risks

Addressing emerging risks to running a safe utility remains core to the utilities' business and is already embedded in the traditional rate setting process via forward looking test years and the opportunity to earn ROE. Additionally, disciplining the spend on emerging risks, and wildfire risk in particular, for cost-efficient risk reduction is particularly difficult. Thus it is likely that:

1. Predictable utility expenses, even if they touch on wildfire, are best addressed in rate cases where there is the opportunity to timely recover costs as the legislation requires. This decision creates a three-year runway to ramp spending and understand ongoing costs. Thus, many wildfire mitigation O&M costs may have stabilized and be predictable when these AACs are reviewed again. Similarly, we address the addition of capital costs in rate cases regularly so the ebb and flow of wildfire capital expenses is not unusual. It is a normal part of ratemaking and regulatory lag both benefits and costs the utility—which controls their own rate case timing.
2. If upon review in three years there is reason to continue with such favorable cost recovery treatment for wildfire spending, then the reasonableness or prudence of costs should be judged through performance measures in order to ensure cost-efficient risk reduction.

Finally, this is among the first of many significant challenges that a changing climate will pose to providing reliable, affordable, and safe electricity. This issue alone has the potential to be enormously costly and there are others—from extreme weather to flooding to long-term, widespread drought, from long-duration heat events to national security concerns. Addressing emerging risks has always been central to the utilities’ business. It is not contingent upon favorable rate treatment or other incentives, but inherently bears rewards for shareholders. I hope these risks and challenges will come forward in rate cases, where they can be balanced with other efficiencies, savings, and the utilities’ overall performance.



Letha Tawney
Commissioner



**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UE 407

In the Matter of

PACIFICORP d/b/a PACIFIC POWER

Application for Approval of an Automatic
Adjustment Clause for Recovery of Costs
Associated with the Company's Wildfire
Protection Plan

STIPULATION

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This Stipulation resolves all issues in PacifiCorp d/b/a Pacific Power's

(PacifiCorp or Company) Application for approval of an automatic adjustment clause for

recovery of costs associated with the Company's Wildfire Protection Plan (WPP), filed in docket

UE 407 and now pending before the Public Utility Commission of Oregon (Commission). The

parties to the Stipulation are PacifiCorp, Commission Staff (Staff), and the Alliance of Western

Energy Consumers (AWEC), together referred to as the "Stipulating Parties." The Stipulating

Parties believe that the Stipulation represents a reasonable compromise of positions among the

parties and should be adopted by the Commission without modification. The Oregon Citizens'

Utility Board (CUB) is the only party who has intervened in docket UE 407 and is not a party to

the Stipulation. CUB has indicated that it will object to the Commission adopting the

Stipulation.

I. RECITALS

1. Oregon Revised Statute (ORS) 757.963(1) provides that "[a] public utility that

provides electricity must have and operate in compliance with a risk-based wildfire protection

plan that is filed with the Public Utility Commission and has been evaluated by the commission."

1 2. The Commission approved PacifiCorp’s 2022 WPP on April 28, 2022. The 2022
2 WPP describes PacifiCorp’s comprehensive plan for wildfire mitigation in compliance with the
3 requirements in Oregon Administrative Rule (OAR) 860-300-0002.¹

4 3. ORS 757.963(8) provides that “[a]ll reasonable operating costs incurred by, and
5 prudent investments made by, a public utility to develop, implement or operate a wildfire
6 protection plan are recoverable in the rates of [a] public utility....”

7 4. The Commission approved a PacifiCorp application for deferred accounting to
8 track the incremental operating costs and capital investments associated with the Company’s
9 WPP on July 13, 2022.² PacifiCorp indicated in this application that it would make a subsequent
10 filing in 2022 for approval of a rate schedule and automatic adjustment clause to begin recovery
11 of these costs.³

12 5. ORS 757.963(8) further provides that the Commission “shall establish an
13 automatic adjustment clause, as defined in ORS 757.210, or another method to allow timely
14 recovery of these costs.”

15 6. On July 12, 2022, PacifiCorp filed an Application initiating docket UE 407
16 requesting that the Commission: (1) approve a new rate tariff Schedule 190, balancing account,
17 and automatic adjustment clause for the incremental operating costs and capital investments
18 associated with the Company’s WPP; (2) find that the costs contained within the 2022 WPP are
19 reasonable and appropriate; and (3) find that the approximately \$19.9 million increase to

¹ *In the Matter of PacifiCorp d/b/a Pacific Power 2022 Wildfire Mitigation Plan*, Docket No. UM 2207, Order No. 22-131 (April 28, 2022). A copy of the 2022 WPP is provided in the Application filed to this docket on July 12, 2022.

² *In the Matter of PacifiCorp d/b/a Pacific Power, Application for Approval of Deferred Accounting for Operating Costs and Capital Investments Made to Implement and Operate the Company’s Oregon Wildfire Protection Plan*, Docket No. UM 2221, Order 22-258 (July 13, 2022) (order adopting Commission Staff’s recommendation).

³*Id.*, Application at 2 (Jan. 1, 2022).

1 PacifiCorp's annual revenue requirement for the incremental costs associated with the 2022 WPP
2 is just and reasonable.

3 7. On July 21, 2022, the Commission issued an Order suspending the Application
4 filed in this docket on July 12, 2022, for a period not exceeding nine months.

5 8. On August 2, 2022, the Commission issued a procedural conference
6 memorandum and notice of prehearing conference.

7 9. On August 9, 2022, CUB filed a notice of intervention. On August 12, 2022,
8 AWEC filed a petition to intervene, which was granted by the Commission on August 18, 2022.

9 10. On August 18, 2022, the Commission issued a procedural conference
10 memorandum adopting a procedural schedule in this docket.

11 11. On September 27, 2022, in accordance with the procedural schedule adopted by
12 the Commission, PacifiCorp filed opening testimony and exhibits to this docket in support of the
13 Company's request for the Commission's approval of the Application.

14 12. On November 10, 2022, PacifiCorp, Staff, AWEC, and CUB convened a
15 settlement conference. As a result of this meeting and subsequent communications, the
16 Stipulating Parties reached a settlement agreement to resolve all issues in docket UE 407. CUB
17 did not join the settlement agreement reached by the Stipulating Parties. The terms of settlement
18 agreement reached by the Stipulating Parties are captured within this Stipulation.

19 **II. AGREEMENT**

20 13. Performance-Based Ratemaking: The Stipulating Parties agree that there will be
21 no performance-based rate mechanism or earnings test applied the recovery of costs (including
22 capital investments) associated with a WPP in this docket.

1 14. Treatment of Capital Investments: Prudent capital investments under the WPP
2 placed in service after the rate effective date of the most recent rate adjustment will be included
3 in rates through the WPP Adjustment consistent with the treatment of capital investments in
4 general rate cases (including authorized rate of return from the most recent general rate case).

5 15. Rate base treatment: Rates will be updated annually to capture the rate base value
6 of WPP investments as of the annual rate effective date of the mechanism. Additionally, the rate
7 base amounts included in the Adjustment mechanism will also be updated annually to reflect
8 depreciation. Wildfire-related capital investments will not be “absorbed” in the context of a
9 general rate case and cost recovery of such investments is to remain in the wildfire mechanism
10 separate from general revenue requirements.

11 16. Cost Recovery: Cost recovery of projected ongoing operation and maintenance
12 (O&M) for wildfire mitigation-related activities are to be included within the WPP Adjustment
13 mechanism. These expenditures are to reflect expenditures consistent with PacifiCorp’s most
14 recent WPP filing under ORS 757.963. However, expenditures associated with the WPP remain
15 subject to a prudence review.

- 16 a. As part of the annual filing, PacifiCorp will provide detailed information that
17 can be used to identify that the costs included in the mechanism are
18 incremental to costs included for recovery in a general rate case or Schedule
19 94, the vegetation management mechanism. Cost recovery of the amount of
20 O&M included in current base rates prior to Commission adoption of this
21 wildfire mechanism will be excluded from this mechanism. Non-WPP
22 vegetation management will not be recovered through this mechanism.

1 b. Any under or over expenditures of wildfire mitigation-related O&M on a
2 12-month basis will be carried forward in a subsequent 12-month period in a
3 balancing account to be recovered (if customers owe money) or refunded (if
4 the Company owes money) in rates for the subsequent 12-month period of the
5 wildfire mechanism's operation. The interest rate on the balancing account
6 will be the modified blended treasury plus 100 basis points.

7 17. Vegetation Management Metrics: Consistent with the First Partial Stipulation in
8 PacifiCorp's most recent general rate case (Docket No. UE 399), the vegetation management
9 performance-based mechanism will not differentiate between fire high consequence areas
10 (FHCA) and non-FHCA.⁴ (All violations will be treated equally/counted for any performance
11 based ratemaking treatment that the Commission adopts in the separate vegetation management
12 mechanism).

13 18. Timing: Rates for this WPP Adjustment mechanism will be effective
14 approximately 120 days after PacifiCorp submits its annual filing, including all relevant
15 supporting materials, currently anticipated to be on July 1 of each year.

16 19. Term: This automatic adjustment clause will continue until a replacement
17 mechanism is approved by the Commission under ORS 757.963(8). Parties may not propose
18 changes to this mechanism that would be effective prior to the annual filing that would occur on
19 July 1, 2025. Notwithstanding these provisions, this mechanism will be effective through July 1,
20 2025. No party is prohibited from proposing performance based ratemaking mechanisms related
21 to a wildfire mitigation mechanism with a rate effective date after July 1, 2025.⁵

⁴ *In the Matter of PacifiCorp, d/b/a Pacific Power, Request for a General Rate Revision, Docket No. UE 399, First Partial Stipulation on Wildfire Mitigation and Vegetation Management Issues (Aug. 25, 2022).*

⁵ This statement should not be construed as any Stipulating Party taking a position on whether performance based ratemaking mechanisms or any earnings test is permitted by the language of ORS 757.963.

1 20. Parties may propose adjustments in future cost recovery proceedings based on a
2 determination that costs are not incremental to the amounts included in base rates.

3 21. At a minimum PacifiCorp shall provide detailed supporting information in its
4 annual filing including, but not limited to, the following:

5 a. Detailed accounting comparing the amounts spent relative to its WPP budget;

6 b. Invoice level data detailing non-labor O&M using the same format as Staff
7 Standard Data Request 57;

8 c. A project-level itemized budget of WPP investments and costs in each annual
9 filing; and

10 d. A detailed reconciliation between the budget and actual expenditures, by
11 project, in each annual filing.

12 22. Other Adjustments: The Parties agree that this Stipulation represents a
13 compromise among competing interests and a resolution of all contested issues in this
14 proceeding. Any adjustment to PacifiCorp's Application not incorporated into this Stipulation
15 directly or by reference would be resolved without an adjustment or recommendation for the
16 purposes of this proceeding.

17 23. The Stipulating Parties agree to submit this Stipulation to the Commission and
18 request that the Commission adopt the Stipulation as presented and without any modification.
19 The Stipulating Parties agree that this Stipulation will result in rates that meet the standard in
20 ORS 756.040.

21 24. The Stipulating Parties agree to make best efforts to provide each other any and
22 all news releases that any Party intends to make about the Stipulation two business days in
23 advance of publication. This provision is not binding on the Commission itself.

24 25. This Stipulation will be offered in the record as evidence under OAR 860-001-
25 0350(7). The Stipulating Parties agree to support this Stipulation throughout this proceeding and

1 any appeal, provide witnesses to sponsor the Stipulation at hearing, if required, and recommend
2 that the Commission issue an order adopting the Stipulation.

3 26. The Stipulating Parties have negotiated this Stipulation as an integrated
4 document. If the Commission rejects all or any material part of this Stipulation or adds any
5 material condition to any final order that is not consistent with this Stipulation, each Stipulating
6 Party reserves its right, pursuant to OAR 860-001-0350(9), to present evidence and argument on
7 the record in support of the Stipulation or to withdraw from the Stipulation. The Stipulating
8 Parties agree that in the event the Commission rejects all or any material part of this Stipulation
9 or adds any material condition to any final order that is not consistent with this Stipulation, the
10 Parties will meet in good faith within fifteen days and discuss next steps. A Stipulating Party
11 may withdraw from the Stipulation after this meeting by providing written notice to the
12 Commission and other Parties. Parties shall be entitled to seek rehearing or reconsideration
13 pursuant to OAR 860-001-0720 in any manner that is consistent with the agreement embodied in
14 this Stipulation. Nothing in this provision prevents a Stipulating Party from individually
15 appealing an order under ORS 757.610.

16 27. By entering into this Stipulation, no Stipulating Party approves, admits, or
17 consents to the facts, principles, methods, or theories employed by any other Stipulating Party.

18 28. This Stipulation is not enforceable by any Stipulating Party unless and until
19 adopted by the Commission in a final order. Each signatory to this Stipulation avers that they are
20 signing this Stipulation in good faith and that they intend to abide by the terms of this Stipulation
21 unless and until the Stipulation is rejected or adopted only in part by the Commission. The
22 Stipulating Parties agree that the Commission has exclusive jurisdiction to enforce or modify the
23 Stipulation. If the Commission rejects or modifies this Stipulation, the Stipulating Parties

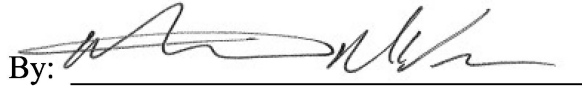
1 individually reserve the right to seek reconsideration or rehearing of the Commission order under
2 ORS 756.561 and OAR 860-001-0720 or to appeal the Commission order individually under
3 ORS 756.610.

4 29. This Stipulation may be executed in counterparts and each signed counterpart
5 constitutes an original document.

- 1 This Stipulation is entered into by each Stipulating Party on the date entered below such
- 2 Stipulating Party's signature.

PACIFICORP

STAFF of the PUBLIC UTILITY
COMMISSION OF OREGON

By:  _____

By: _____

Date: 12-29-22 _____

Date: _____

ALLIANCE OF WESTERN ENERGY
CONSUMERS

By: _____

Date: _____

- 1 This Stipulation is entered into by each Stipulating Party on the date entered below such
- 2 Stipulating Party's signature.

PACIFICORP

STAFF of the PUBLIC UTILITY
COMMISSION OF OREGON

By: _____

By: /s/ Johanna Riemenschneider

Date: _____

Date: 12/29/2022

ALLIANCE OF WESTERN ENERGY
CONSUMERS

By: _____

Date: _____

- 1 This Stipulation is entered into by each Stipulating Party on the date entered below such
- 2 Stipulating Party's signature.

PACIFICORP

STAFF of the PUBLIC UTILITY
COMMISSION OF OREGON

By: _____

By: _____

Date: _____

Date: _____

ALLIANCE OF WESTERN ENERGY
CONSUMERS

By: /s/ Brent Coleman_____

Date: December 29, 2022_____

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON
UE 412**

In the Matter of

PORTLAND GENERAL ELECTRIC
COMPANY

Advice No. 22-18, New Schedule 151,
Wildfire Mitigation Cost Recovery

NONUNANIMOUS STIPULATION

This Nonunanimous Stipulation (Stipulation) is entered into by Portland General Electric Company (PGE or Company), Staff of the Public Utility Commission of Oregon (Staff), and the Alliance of Western Energy Consumers (AWEC) (collectively, the Stipulating Parties). This Stipulation resolves all issues concerning the Company's Wildfire Mitigation Cost Recovery Mechanism and the related Schedule 151 in Docket No. UE 412. The Oregon Citizens' Utility Board (CUB) is a party to this docket but is not a signatory of this Stipulation. There are no other parties in this docket.

I. INTRODUCTION

In accordance with Senate Bill 762, ORS 757.963(8), and Commission Order No. 22-129, on August 19, 2022, PGE filed Advice No. 22-18 for new Schedule 151; an automatic adjustment clause to allow for the timely recovery of incremental costs associated with the development and implementation of the Company's Wildfire Mitigation Plan, which are submitted in Docket No. UM 2208. On September 7, 2022, Order No. 22-323 was issued suspending Advice No. 22-18 for a period of time not to exceed nine months from September 21, 2022. All parties in Docket No. UE 412 met multiple times to discuss settlement. After CUB

withdrew from settlement discussions, the Stipulating Parties continued negotiations and enter into this agreement based on a mutual understanding that it is a reasonable compromise of the positions of the Stipulating Parties in Docket No. UE 412. The Stipulating Parties have reached agreement settling this docket as set forth below. The Stipulating Parties request that the Commission issue an order adopting this Stipulation.

II. TERMS OF STIPULATION

1. PGE will implement a Wildfire Mitigation Mechanism (WM Mechanism) via Schedule 151 to recover Wildfire Mitigation (WM)-related O&M costs and the revenue requirement for capital costs that are incurred under the implementation of PGE's Wildfire Mitigation Plan (WMP). There will be no performance-based rate mechanism or earnings test applied to cost recovery of WM-related costs.
 - a. Prior to PGE's next general rate case, Schedule 151 will include only (1) O&M costs incremental to what is currently included in base rates, and (2) the revenue requirement for prudent WM-related capital placed in service prior to the Schedule 151 rate effective date, consistent with the treatment of capital investments in general rate cases.
 - b. In PGE's next general rate case and consistent with Paragraph No. 10 below, PGE will remove all WM-related O&M costs from base rates and will modify Schedule 151 to include (1) all WM-related O&M costs, and (2) the revenue requirement for prudent WM-related capital placed in service prior to the Schedule 151 rate effective date, consistent with the treatment of capital investments in general rate cases.

- c. PGE will provide data necessary to determine savings and/or preclude double-recovery, if any, to Routine Vegetation Management as compared to Advanced Wildfire Risk Reduction (AWRR) costs.
2. The updated Schedule 151 rates will capture the rate base value of WM-related investments previously included in Schedule 151 rates but are to reflect updated plant amounts net of depreciation that has or will have taken place since such an investment was last included or updated in Schedule 151 rates.
3. WM-related capital investments will not be “absorbed” in the context of a general rate case and cost recovery of such investments is to remain in the WM Mechanism separate from general revenue requirements.
4. The WM Mechanism will include projected ongoing O&M costs for WM-related activities, including AWRR activities and other activities that occur in High Fire Risk Zones (HFRZ) and areas that experience a Public Safety Power Shutoff (PSPS) event.
5. Any under or over expenditures of WM-related O&M on a 12-month basis will be carried forward in a subsequent 12-month period in a balancing account with an automatic adjustment clause to be recovered (if customers owe money) or rebated (if company owes money) in Schedule 151 rates for the subsequent 12-month period of the WM Mechanism’s operation. The interest rate on the balancing account will be the Modified Blended Treasury (MBT) rate plus 100 basis points.
6. To be clear, general rate cases will continue to include Routine Vegetation Management O&M costs.

7. Nothing in this stipulation precludes parties from proposing a performance-based rate mechanism in a future general rate case specific to cost recovery for Routine Vegetation Management O&M costs, which are exclusive of AWRR costs.
8. Parties will work together to make Schedule 151 rates effective each year in a shoulder month, such as April or May.
9. PGE will only include in Schedule 151 labor costs that are incremental to what is included in base rates. PGE will provide documentation to parties demonstrating that any WM-related labor included in Schedule 151 is incremental to what is included in base rates.
10. The WM Mechanism will be in place for no less than three years after which time any party to the UE 412 proceeding can propose changes to the mechanism, with resulting changes to be effective in the next revision to Schedule 151 which would be filed as soon as possible.
11. Staff and parties will support, or not oppose, approval of PGE's UM 2019 Applications for Deferred Accounting of Costs Associated with Wildfire Risk Mitigation Measures. Support or non-opposition is related to 2022 and 2023 WM costs only.
12. During the Schedule 151 reviews, parties may propose adjustments to WM-related costs based on a determination that WM-related costs are not incremental to the amounts included in base rates.
13. In the annual Schedule 151 filings, PGE will provide detailed supporting information including, but not limited to, the following:
 - a. Transactional level data detailing non-labor O&M using the same format as Staff Standard Data Request 57.

- b. Comparison of WMP budget against actual expenditures at the program level.
 - c. Forecasts of expenditures at the program level.
14. Stipulating Parties recommend and request the Commission approve the Stipulation and all provisions described herein without modification as appropriate and reasonable resolutions of all issues addressed in this Stipulation.
15. Stipulating Parties agree that this Stipulation is in the public interest and will result in rates that are fair, just, and reasonable, consistent with the standard in ORS 756.040.
16. Stipulating Parties agree that this Stipulation represents a compromise in the positions of the Stipulating Parties. Without the written consent of all the Stipulating Parties, evidence of conduct or statements, including but not limited to term sheets, presentations, or other documents created solely for use in settlement conferences in this docket, are confidential and not admissible in this instance or any subsequent proceeding, unless independently discoverable or offered for other purposes allowed under ORS 40.190.
17. Stipulating Parties have negotiated this Stipulation as an integrated document. The Stipulating Parties seek to obtain Commission approval of this Stipulation. Each Stipulating Party reserves the right to jointly or separately: present evidence and arguments on the record in support of the Stipulation, including the right to cross-examine witnesses, introduce evidence as deemed appropriate to respond fully to issues presented, raise issues that are incorporated in the settlements embodied in this Stipulation, submit briefs; and if the Commission rejects all or any material part of this Stipulation, or adds any material condition to any final order that is not consistent with this Stipulation (ii) pursuant to ORS 756.561 and OAR 860-001-0720, to seek rehearing or reconsideration, or pursuant to ORS 756.610 to appeal the Commission's final order.

18. This Stipulation will be offered into the record in this proceeding as evidence pursuant to OAR 860-001-0350(7). Stipulating Parties agree to support this Stipulation throughout this proceeding and in any appeal and provide witnesses to support this Stipulation (if required by the Commission), and recommend that the Commission issue an order adopting the settlement contained herein. By entering into this Stipulation, no Stipulating Party shall be deemed to have approved, admitted or consented to the facts, principles, methods or theories employed by any other Stipulating Party in arriving at the terms of this Stipulation. Except as provided in this Stipulation, no Stipulating Party shall be deemed to have agreed that any provision of this Stipulation is appropriate for resolving issues in any other proceeding.
19. This Stipulation may be signed in any number of counterparts, each of which will be an original for all purposes, but all of which taken together will constitute one and the same agreement.
20. This Stipulation settles all issues in this docket.

DATED this 13th day of January, 2023.

**PORTLAND GENERAL ELECTRIC
COMPANY**

/s/Kim S. Burton

**STAFF OF THE PUBLIC UTILITY
COMMISSION OF OREGON**

/s/Stephanie Andrus

ORDER NO. 23-173

**ALLIANCE OF WESTERN ENERGY
CONSUMERS**

/s/Bradley G. Mullins