

ORDER NO. 24-066

ENTERED Mar 08 2024

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 2161(2)

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 March 5, 2024, 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. CA4

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: March 5, 2024**

REGULAR _____ **CONSENT** X **EFFECTIVE DATE** _____ **N/A**

DATE: February 5, 2024

TO: Public Utility Commission

FROM: Kathy Zarate

THROUGH: Bryan Conway and Marc Hellman **SIGNED**

SUBJECT: PACIFIC POWER:
(Docket No. UM 2161(2))
Reauthorization of deferral accounting for costs related Deer Creek Mine
Royalty Payments 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 beginning March 19, 2023, and ending March 18, 2024.

DISCUSSION:

Issue

Whether the Commission should approve PacifiCorp's requests for reauthorization to defer Deer Creek Mine royalty payments costs.

Applicable Law

The Company 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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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

The Commission Order No. 20-473 to provide for the continued deferral of royalty payment costs under the authorization granted in Docket No. UM 1712, out of an abundance of caution, on March 19, 2021, PacifiCorp filed to defer actual Deer Creek Mine royalty payments.

The Commission authorized deferral of these costs under docket UM 2161 in Order No. 21-415, issued on November 17, 2021.¹

On March 18, 2022, the Company filed an application for reauthorization to defer the Deer Creek Mine abandonment royalty payments for the 12-month period beginning March 19, 2022. The Commission approved the deferral application on April 7, 2022, in Order No. 22-109, to defer costs associated with Deer Creek Mine royalty payments for the 12-month period ending March 18, 2023.

¹ *In the matter of PacifiCorp, dba Pacific Power, Application for Approval of Deferred Accounting of Deer Creek Mine Royalty Payment Costs*, Docket No. UM 2161, Order No. 21-415 (November 11, 2021).

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Note: In Docket No. UE 374,² 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. Included in the deferred costs were approximately \$12 million related to estimated coal lease abandonment royalty payments.

In Order No. 20-473, the Commission found that PacifiCorp had not demonstrated that its preliminary forecast of the royalty payments should be included in rates, but authorized deferral of those costs as approved in Docket No. UM 1712 for recovery in a future rate proceeding.

Estimated Costs.

The Company estimates the abandonment royalty payments to exceed \$16.2 million.

Reason for Deferral

PacifiCorp requests reauthorization of this deferral under ORS 757.259(2)(e), and in accordance with Order No. 20-473. This deferral will minimize the frequency of rate changes or the fluctuation of rate levels or match appropriately the costs borne by and benefits received by customers.

Proposed Accounting

The Company proposed to record the deferral as a regulatory asset in FERC Account 182.3 (Other Regulatory Assets), crediting FERC Account 506 (Miscellaneous Steam Power Expenses).

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.

² In the matter of PacifiCorp, dba Pacific Power, Request for a General Rate Revision, Docket No. UE 374, Order No. 20-473 (December 18, 2020).

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- 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

Staff supports annual deferral of actual royalty obligations related to the Deer Creek Mine through UM 2161(2).³ Staff has previously approved the same deferral for the previous year in UM 2161(1).

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 continue to 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.

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

The Company has reviewed a draft of this memo and voiced no concerns.

PROPOSED COMMISSION MOTION:

Approve PacifiCorp's request for reauthorization to defer costs associated with the Deer Creek Mine royalty payments for a 12-month period beginning March 19, 2023, and ending March 18, 2024.

PAC UM 2161(2) Deer Creek Mine Deferral

³ PacifiCorp recently filed ADV 1596 to cancel Schedule 198 which is a rate to collect Deer Creek Mine Closure costs. That filing and issue is separate and distinct from the royalty payments filing. See Order No. 20-473.