

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UE 428

In the Matter of

PACIFICORP, dba PACIFIC POWER,

Advice No. 23-018 (ADV 1545),  
Modifications to Rule 4, Application for  
Electrical Service.

ORDER

DISPOSITION: ORDER NO. 24-155 MODIFIED

On July 29, 2024, Green Energy Institute at Lew & Clark Law School, Sierra Club, Oregon Citizens' Utility Board, and Oregon Consumer Justice (the Joint Parties) filed a joint application for rehearing or reconsideration arguing that the following language should be deleted from Order No. 24-155:

The James verdicts are an example of the risk utilities may face in adjudication of wildfire actions in civil courts, where juries evaluate whether the company met an unclear and rapidly changing duty of care and engaged in willful misconduct. It may be impossible for a utility to avoid a civil court finding of gross negligence, regardless of actions the utility took.

The Joint Parties argue that, under our rehearing rules, there is “[g]ood cause for further examination of an issue essential to the decision.”<sup>1</sup> Here, they argue, the paragraph “inappropriately implies that Oregon juries, trial courts, and appellate courts are incapable of fairly assessing legal and factual issues that arise in utility-wildfire litigation or reaching a just verdict.”<sup>2</sup>

On August 13, 2024, PacifiCorp, dba Pacific Power, filed a response arguing that the language in question is dicta and not “essential to the decision.”

While we agree with PacifiCorp that the language is not essential to the decision, we consider the broader issue of sufficient importance to find good cause to waive that requirement at this time and to amend the order to clarify our intent.<sup>3</sup>

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<sup>1</sup> OAR 860-001-0720(d).

<sup>2</sup> Application at 5.

<sup>3</sup> OAR 860-001-0000(2).

Our intent was not to call into question the competency of Oregon juries, trial courts, or appellate courts, nor to comment specifically on the merits of the *James* verdict. Instead, we intended to make a broader, forward-looking comment about the challenging interactions between changing utility standards of practice, as seen in regular updates to wildfire mitigation plans, and civil court standards for utility liability in the face of rapidly changing wildfire risk.

**ORDER**

To clarify our intent, the language in question is amended to read:

Going forward, utilities face risks in adjudication of wildfire actions in civil courts. The standards of utility practice in the area of utility wildfire mitigation are changing rapidly. In this dynamic environment, there is uncertainty as to how civil law standards will apply to these rapidly changing standards of utility practice. This, in turn, creates uncertainty about whether a utility can avoid adverse civil court findings even when acting according to its wildfire mitigation plan.

The remainder of the order remains unchanged.

Made, entered, and effective Aug 28 2024.



**Megan W. Decker**  
Chair



**Letha Tawney**  
Commissioner



**Les Perkins**  
Commissioner



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.