

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

PACIFICORP d/b/a PACIFIC POWER &
LIGHT COMPANY,

Respondent.

Docket No. UE-230172
(Consolidated)

In the Matter of

ALLIANCE OF WESTERN ENERGY
CONSUMERS'

Petition for Order Approving Deferral of
Increased Fly Ash Revenues

Docket No. UE-210852
(Consolidated)

**PACIFICORP AND AWEC'S POST-HEARING BRIEF
IN SUPPORT OF SETTLEMENT STIPULATION**

February 2, 2024

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I. INTRODUCTION

1 In accordance with the December 19, 2023, Notice Modifying Procedural Schedule, PacifiCorp dba Pacific Power & Light Company (PacifiCorp or the Company) submits this Post Hearing Brief in Support of the Settlement Stipulation to the Washington Utilities and Transportation Commission (Commission). The Alliance of Western Energy Consumers (AWEC) joins the Company's brief except for Section B(1)-(7). This brief is limited to only those issues included in the Settlement Stipulation (Stipulation), which was filed on December 15, 2023. All net power cost (NPC) and power cost adjustment mechanism (PCAM) issues that were not resolved by the Stipulation were addressed in the Company's January 12, 2024 Post-Hearing Brief.

2 In its initial filing, PacifiCorp proposed a two-year Multi-Year Rate Plan (MYRP) that included requested rate increases of approximately \$26.8 million or 6.6 percent in Rate Year 1 (RY1), effective March 1, 2024, and \$27.9 million or 6.5 percent in Rate Year 2 (RY2), effective March 1, 2025.¹ In addition to participation from Commission Staff (Staff) and the Public Counsel Unit of the Attorney General's Office (Public Counsel), AWEC, The Energy Project (TEP), the NW Energy Coalition (NVEC), Walmart Inc. (Walmart), and the Sierra Club all intervened in this proceeding.

3 Prior to the Company's rate case filing, AWEC filed a petition for accounting order (Petition) in Docket UE-210852, requesting an order requiring PacifiCorp to defer from the date of the Petition the revenue generated by the Company's increased Jim Bridger fly ash sales.² On

¹ McVee, Exh. MDM-1T at 1:22-2:4.

² See *In the Matter of Alliance of Western Energy Consumers, Petition for Order Approving Deferral of Increased Fly Ash Revenue*, Docket No. UE-210852, Petition for Accounting Order (Nov. 8, 2021).

April 28, 2023, AWEC filed a motion to consolidate its Petition with the rate case. This motion was granted and the matters were consolidated.³

4 In this proceeding, the Company and stakeholders developed a robust record, with direct testimony and exhibits from the Company, response testimony from Staff and intervenors, and rebuttal testimony from the Company as well as cross-answering testimony from parties. After engaging in multiple settlement conferences and ongoing discussions, PacifiCorp, Staff, AWEC, TEP, NWEA, and Walmart (collectively, the Parties, and individually Party) reached a partial multi-party settlement as defined under WAC 480-07-730(3)(b).⁴ The Parties filed the Stipulation with the Commission on December 15, 2023. The Sierra Club did not join the Stipulation, but did not oppose its terms and Public Counsel did not join the Stipulation and opposes it.⁵ Among the Parties, the Stipulation resolved all issues in this proceeding except for NPC and the PCAM.⁶ The issues resolved in the Stipulation include the Company's overall revenue requirement, cost of capital, capital additions for Colstrip Unit 4, equity issues, wildfire mitigation costs, and the annual review components of the Company's MYRP.

5 On December 19, 2023, Administrative Law Judge (ALJ) Howard issued a Notice Modifying Procedural Schedule. Consistent with that modified schedule, the Commission held a hearing on the Stipulation on January 12, 2024.

³ Docket Nos. UE-230172 and UE-210852, Order 03/01 at ¶¶ 8-9 (May 24, 2023)

⁴ WAC 480-07-730(3)(b) ("A partial multiparty settlement is an agreement among some, but not all, parties to resolve some, but not all, disputed issues between them.").

⁵ Although the Sierra Club and Public Counsel did not join the Stipulation, they were invited to participate and included in settlement discussions until it became clear that these parties did not wish to continue in settlement discussions.

⁶ Consistent with the ALJ's scheduling order, all parties filed briefs on NPC and PCAM issues on January 12, 2024.

II. LEGAL STANDARD

6 The Commission must determine utility rates that are fair, just, reasonable, and sufficient.⁷ In reviewing a proposed settlement under WAC 480-07-750(2), the Commission “will approve a settlement if it is lawful, supported by an appropriate record, and consistent with the public interest in light of all the information available to the commission.” When evaluating a settlement, the Commission considers the entire record, including the initial filing and subsequent rounds of testimony, to determine whether the standard has been met.⁸ The Commission may approve a settlement with or without conditions.⁹

7 The parties filing the settlement bear the burden to provide “supporting documentation sufficient to demonstrate that the settlement is consistent with the law and the public interest.”¹⁰ However, a party opposing a settlement must show that the settlement fails to meet the Commission’s standards and “present an alternative supported by the record.”¹¹

III. ARGUMENT

A. The Stipulation is lawful, supported by an appropriate record, and consistent with the public interest.

8 The Parties submitted a Stipulation that represents a compromise among their competing interests and a resolution of all contested issues except for NPC and PCAM.¹² The Parties agree that the Stipulation is in the public interest and will produce rates for the Company that are fair, just, reasonable, equitable, and sufficient.¹³ This Stipulation is supported by the Joint Testimony in Support of the Settlement Stipulation (Joint Testimony) prepared by the Parties, the

⁷ RCW 80.28.020.

⁸ *WUTC v. Avista Corp. d/b/a Avista Utils.*, Docket Nos. UE-220053, UG-220054, and UE-210854 (Consolidated), Order 11/05 at 3 (Jan. 30, 2023).

⁹ WAC 480-07-750(2)(a),(b).

¹⁰ WAC 480-07-740(3).

¹¹ Docket Nos. UE-220053, UG-220054, and UE-210854 (Consolidated), Order 11/05 at ¶ 10.

¹² Stipulation at ¶ 36 (Dec. 15, 2023).

¹³ *Id.* at ¶ 34.

Company's initial filing, and the Parties' pre-filed testimony in this docket. Each substantive term of the Stipulation is summarized below, along with the Parties' positions prior to the Stipulation and their support for the compromise position agreed to in the Stipulation.

1. Overall Revenue Requirement

9 In its initial filing, the Company requested rate increases of approximately \$26.8 million or 6.6 percent in RY1 and \$27.9 million or 6.5 percent in RY2.¹⁴ Staff proposed a \$16.6 million RY1 increase and \$26.06 million increase in RY2,¹⁵ and AWEC proposed to decrease rates in RY1 by \$20.0 million and increase rates by \$8.9 million, relative to current rates, in RY2.¹⁶ In its rebuttal filing, the Company modified its proposal to increases of \$18.7 million in RY1 and \$22.0 million in RY2.¹⁷ The other parties to the Stipulation did not present revenue requirement proposals.

10 If the Commission adopts the Stipulation, the revenue requirement increase will be \$13,786,955 for RY1 and \$21,065,564 for RY2, subject to potential changes based on a final Commission determination on litigated NPC issues and a final NPC update.¹⁸ Consistent with the Company's rebuttal filing, in the Stipulation all projects actually placed in service before December of 2022 will be treated as traditional pro-forma capital additions and projects no longer expected to be in service in 2025 are excluded.¹⁹ Additionally, the revenue requirement does not include pro-forma capital additions for Colstrip Unit 4.²⁰

¹⁴ McVee, Exh. MDM-1T at 1:22-2:4.

¹⁵ McGuire, Exh. CRM-1T at 6:8-10; Huang, Exh. JH-1T at 4.

¹⁶ Mullins, Exh. BGM-1T, at Table BGM-1; Mullins, Exh. BGM-1T at 3:26-4:2.

¹⁷ McVee, Exh. MDM-2T at 6:13-16; Cheung, Exh. SLC-8T at 1:15-17.

¹⁸ Stipulation at ¶ 8. The overall revenue requirement for RY1 is based on the Company's position on NPC in rebuttal testimony, namely a forecast of \$190.2 million. *Id.* at 4 n.8.

¹⁹ *Id.* at ¶ 9; Cheung, Exh. SLC-8T 21:25-28, 22:13-19.

²⁰ Stipulation at ¶ 12.

11 As detailed in the Joint Testimony, PacifiCorp supports the overall revenue requirement result in the Stipulation because it provides the Company with the ability to recover its prudently incurred costs.²¹ Staff supports the stipulated revenue requirement because it would result in rates materially below the revenue requirement Staff recommended in response testimony²²—over the two-year rate plan the increase in rates would be approximately \$10.4 million less than the additional revenues Staff recommended in testimony.²³ Finally, AWEC supports the stipulated revenue requirement because it is substantially reduced from the request in the Company’s initial filing and may reduce further depending on the Commission’s resolution of NPC issues.²⁴ Thus, the reduced revenue requirement proposal included in the Stipulation achieves a fair and reasonable result, and is supported by evidence in the record.

2. Cost of Capital

12 The Company had initially proposed a 7.6 percent overall rate of return.²⁵ Staff proposed a 7.26 percent overall rate of return.²⁶ AWEC proposed a rate of 6.927 percent.²⁷ Additionally, while Walmart did not specify a proposed rate of return, it asked that the Commission closely examine the increases in the Company’s return on equity in light of customer impacts, the use of a MYRP, and the range of recently approved returns for other utilities.²⁸

13 The Stipulation includes an overall rate of return of 7.29 percent but does not specify the return on equity, cost of debt, or capital structure.²⁹ The Parties all agree that the stipulated overall rate of return is reasonable and represents a reasonable compromise of competing

²¹ Joint Testimony at 21:4-5 (Dec. 15, 2023).

²² *Id.* at 24:4-6.

²³ *Id.* at 24:14-17.

²⁴ *Id.* at 28:21-29:7.

²⁵ Koblaha, Exh. NLK-1T at 2:15.

²⁶ Joint Issues Matrix at 6 (Dec. 4, 2023).

²⁷ Kaufman, LDK-1T at 1:13-15, 34:19-20.

²⁸ Kronaeur, Exh-AJK-1T at 6:7-16.

²⁹ Stipulation at ¶ 10.

interests.³⁰ Indeed, the agreed-upon rate of return is well within the reasonable range reflected in the Parties' testimony; it is nearly the mid-point between the Parties' high and low recommendation (7.6 and 6.927 percent) and is three basis points higher than Staff's recommendation. Moreover, the agreed-upon rate of return appropriately reflects increased capital costs since the Commission last set the Company's rate of return at 7.17 percent in December 2020.³¹ Given that interest rates are significantly higher today, the modest 12 basis point increase is reasonable and supported by the record.³²

3. Coal-fired Facilities Tracker

14 In its response testimony, Staff proposed a tracker to address the removal of coal from rates before January 1, 2026.³³ In rebuttal testimony, the Company had opposed Staff's proposal because the MYRP also provided processes for tracking the removal of coal costs.³⁴ The Stipulation adopts Staff's proposed tracker.³⁵ In support of the Stipulation, the Company testified that the tracker will meet the requirement to retire coal facilities, and NWECC testified this is consistent with similar actions approved by the Commission for other Washington utilities.³⁶

4. Jim Bridger Units 1 and 2 Capital Additions and Operation & Maintenance Expenses (O&M)

15 In its initial filing, the Company explained that it will be performing natural gas conversions of Jim Bridger Units 1 and 2 in 2024, and accordingly is requesting modification of the Commission's Exit Orders for these units.³⁷ Because Jim Bridger Units 1 and 2 will provide

³⁰ Joint Testimony at 19:9-11, 21:4-5, and 24:24.

³¹ *WUTC v. PacifiCorp, dba Pac. Power & Light Co.*, Docket Nos. UE-191024, UE-190929, UE-190981, UE-180778 (consolidated), Final Order 09/07/12 at 2 (Dec. 14, 2020).

³² See, e.g., Bulkley, Exhibit No. AEB-15T at 6:9-12 (“[O]ver the past 22 months, interest rates have increased significantly, increasing the cost of equity for utilities.”).

³³ McGuire, Exh. CRM-1T at 54:1-56:6.

³⁴ Cheung, Exh. SLC-8T at 54:16-55:10.

³⁵ Stipulation at ¶ 13.

³⁶ Joint Testimony at 21:6-8, 37:4-7.

³⁷ McVee, Exh. MDM-1T at 14:8-15.

benefits to Washington customers at least until 2029, the Company proposed to allocate project costs for the gas conversion to Washington customers.³⁸ Staff proposed that the Jim Bridger Units 1 and 2 capital additions should be pro-rated to reflect “PacifiCorp’s expectation that the facility will serve Washington for only 5.5 years (2024-2029) of its 13.5 year (2024-2037) expected service life.”³⁹ In its rebuttal filing, the Company opposed Staff’s proposal, because the gas conversion is integral to continuing to provide service to Washington customers, and allowing pro-ration would allow customers to receive the full benefits of the project without paying their fair share, and further because it is not known for certain whether 2029 is the final date that the project will be used to serve Washington customers.⁴⁰ Per the Stipulation, following the gas conversion of Jim Bridger Units 1 and 2, Washington customers will continue to pay for their allocated share of capital additions subject to the Commission’s normal process for prudence and cost recovery.⁴¹ The Parties agree this is a reasonable result.⁴²

16 Regarding the O&M for Jim Bridger Units 1 and 2, in rebuttal the Company proposed an adjustment after determining that O&M expense levels at Jim Bridger are likely to be lower in a post-conversion scenario, relative to the status quo.⁴³ The Stipulation adopts this adjustment, reducing O&M associated with Jim Bridger Units 1 and 2 by \$3.1 million in RY1 with an increase from the revised RY1 amount by approximately \$760 thousand in RY2, resulting in a net total reduction in both years.⁴⁴ The revised O&M costs in the Stipulation accurately reflect the anticipated O&M costs for Jim Bridger Units 1 and 2 following the conversion.⁴⁵

³⁸ McVee, Exh. MDM-2T at 61:17-19.

³⁹ McGuire, Exh. CRM-1T at 35:19-23.

⁴⁰ McVee, Exh. MDM-2T at 62:8-67:11; Richards, Exh. BDR-2CT at 7:5-11.

⁴¹ Stipulation at ¶ 14.

⁴² Joint Testimony at 21:5-8, 36:23-37:3.

⁴³ Cheung, Exh. SLC-8T at 15:13-21.

⁴⁴ Stipulation at ¶ 15.

⁴⁵ Joint Testimony at 8:19-9:5.

5. Fly Ash

17 AWEC initially proposed deferral and amortization for the entirety of the revenues from Jim Bridger fly ash sales,⁴⁶ which Staff supported.⁴⁷ The Company had opposed this deferral in its rebuttal testimony.⁴⁸ In the Stipulation, the Parties agree that fifty percent of the excess actual revenues from Jim Bridger fly ash sales deferred beginning in October of 2020 will be amortized to customers over a two-year period.⁴⁹ This will result in the equivalent of a rate reduction of approximately \$3.4 million that will occur through a separate tracking mechanism over two years.⁵⁰ The Parties agree that the 50/50 amortization reflects a compromise between the Parties supporting and opposing this deferral, and includes an acceptable balance of the benefits of these excess revenues for the Company and for customers.⁵¹

6. Decoupling

18 The Company had initially proposed to eliminate the decoupling mechanism,⁵² which Staff and NWECA both opposed.⁵³ The Parties agree to continue the current decoupling mechanism, but remove the earnings test component of the decoupling mechanism, and instead the RCW 80.28.425(6) earnings test will be applied annually in the MYRP.⁵⁴ The compromise of eliminating the earnings test in the decoupling mechanism and replacing it with the MYRP annual review process will promote efficiency and is consistent with the public interest.⁵⁵

⁴⁶ Mullins Exh. BGM-1T at 30:7-20.

⁴⁷ Tellez, Exh. AMT-1CT at 24:6-11.

⁴⁸ Cheung, Exh. SLC-8T at 55:12-60:8. The Company also identified corrections to AWEC's and Staff's calculations of the revenues. *Id.* at 58:15-60:8.

⁴⁹ Stipulation at ¶ 16.

⁵⁰ *Id.*

⁵¹ Joint Testimony at 21:20-23, 25:3-6.

⁵² Meredith, Exh. RMM-1T at 39; Meredith, Exh. RMM-10.

⁵³ Tellez Exh. AMT-1CT at 15:10-17; *see generally* McCloy, Exh. LM-1T at 5-26 (summarizing history of decoupling and opposing the Company's proposal to eliminate its decoupling mechanism).

⁵⁴ Stipulation at ¶ 17. This earnings test is discussed in greater detail below in discussions of the MYRP.

⁵⁵ Joint Testimony at 21:8-12.

7. Equity and Low-Income / Language Access Plan / Disconnection

19 In its initial filing, PacifiCorp described how equity informs proposed rates, practices, and operations, and summarized actions the Company is taking outside the rate case to promote equity within its Washington service area.⁵⁶ Staff recommended several additional actions, including that the Company complete a distributional equity analysis (DEA), develop benefits and costs (with associated weights, where applicable) related to equity for use in the portfolio optimization step in its transmission and distribution capital planning framework, and modify the criteria that trigger the need to add a new transmission or distribution capital project.⁵⁷ TEP raised concerns about the Company's disconnection, credit agency reporting, and language access policies,⁵⁸ which NWECA supported.⁵⁹ In its rebuttal testimony, the Company presented a DEA in the testimony of Company witness Robert Meredith, and acknowledged the recommendations from stakeholders but also raised concerns regarding the implications of certain recommendations on PacifiCorp as a multi-jurisdictional utility.⁶⁰

20 In the Stipulation, the Parties adopted two of Staff's three proposals and adopted TEP's proposals. Per the Stipulation, the Company will collaborate with the Parties on a methodology to develop a framework to evaluate equity in the Company's next general rate case based on the tenets of equity developed by the Lawrence Berkeley National Laboratory.⁶¹ While extending the Commission's guidance concerning assessment of equity on all of PacifiCorp's operations outside of Washington would present difficulties, the Parties agree that the Company's equity framework will include, among other things, that the Company (1) develop a DEA to be used

⁵⁶ See generally Medina, Exh. CMM-1T at 4-12.

⁵⁷ McGuire, Exh. CRM-1T at 22:15-23:3.

⁵⁸ Stokes, SNS-1T at 17:17-24:18.

⁵⁹ Thompson, Exh. CT-5T at 12:7-14.

⁶⁰ McVee, Exh. MDM-2T at 31:1-47:7.

⁶¹ Stipulation at ¶ 18.

alongside the traditional benefit-cost analysis in the capital planning process for capital projects that are situs-assigned to Washington; (2) submit a compliance filing at the end of the MYRP demonstrating that this DEA has been incorporated; and (3) develop benefits and costs (with associated weights where applicable) related to equity for use in its planning framework for distribution capital projects situs-assigned to Washington.⁶² The Company will also participate in the DEA workshops within the Commission’s equity docket and PacifiCorp’s DEA may be modified in response to Commission guidance.

21 The Stipulation also provides that PacifiCorp will work with the Low-Income Advisory Group (LIAG) and Equity Advisory Group (EAG) to develop enhancements to the Low-Income Bill Assistance (LIBA) Program and create an arrearage management plan.⁶³ After collaborating with the LIAG and EAG, PacifiCorp will propose a package for low-income program changes by April 30, 2025, requesting Commission approval before October 1, 2025.⁶⁴ Per the Company’s initial proposal, the Company will increase its LIBA discount percentages so that they will exactly double the rate increases for each year of the MYRP.⁶⁵ In addition, until the Commission completes its credit and collections rulemaking,⁶⁶ PacifiCorp will raise the dollar threshold for disconnecting residential customers for nonpayment from \$50 to \$150 and will conduct a robust equity review of policies and procedures for disconnecting customers for nonpayment, in consultation with the LIAG and EAG.⁶⁷ Finally, PacifiCorp will work with its Demand Side Management Advisory Group to develop enhancements to its low-income weatherization

⁶² *Id.* at ¶ 18(a)-(b).

⁶³ *Id.* at ¶ 19.

⁶⁴ *Id.* at ¶ 20.

⁶⁵ *Id.* at ¶ 21; Meredith Exh. RMM-1T at 28:13-29:6.

⁶⁶ *Staff Investigation to Consider Possible Changes to Customer Notice, Credit and Collection Rules, Late Fees, Disconnection Fees, Reconnection Fees, and Deposits*, Docket No. U-210800.

⁶⁷ Stipulation at ¶ 23.

programs relating to payments to weatherization agencies and a pilot program to overcome inability to weatherize homes because of deferred maintenance or large repairs.⁶⁸

22 The Parties support the equity provisions in the Stipulation as part of the ongoing process of developing a framework for assessing equity concerns.⁶⁹ PacifiCorp believes that equity provisions agreed upon in the Stipulation give the Company clear guidance to inform the evaluation of equity in preparation for its next rate case while ensuring flexibility should the Commission establish more specific guidance in the meantime.⁷⁰ The Company also believes the Stipulation appropriately narrows the Company's focus to its Washington customers and capital that is situs-assigned to Washington.⁷¹ Staff supports the Stipulation because it adopts most of Staff's recommendations relating to equity.⁷² TEP also comments that the Stipulation adopts many of TEP's proposals, and includes a robust equity review of disconnection policies.⁷³ Finally, NWECA states that the Stipulation takes concrete steps to ensuring equity is considered in utility system planning and rate making.⁷⁴

8. Inflation Reduction Act (IRA) / Infrastructure Investment and Jobs Act (IIJA)

23 In its response testimony, Staff proposed that IRA/IIJA benefits be reported annually under the MYRP, along with justifications for decisions not to pursue benefits, and that the Company participate in a collaborative process with other investor-owned utilities regarding the potential benefits of the IRA and IIJA and document its consideration of and application for benefits pursuant to the IRA and IIJA in future filings.⁷⁵ The Company proposed a modification

⁶⁸ *Id.* at ¶ 24.

⁶⁹ Joint Testimony at 22:5-8, 27:14-16, 33:11-12.

⁷⁰ *Id.* at 22:5-8.

⁷¹ *Id.* at 22:8-15.

⁷² *Id.* at 26:4-8.

⁷³ *Id.* at 32:7-8.

⁷⁴ *Id.* at 33:10-11.

⁷⁵ McGuire, Exh. CRM-1T at 74:14-75:1-4.

to Staff's proposal in PacifiCorp's rebuttal filing, so that as part of the Company's annual capital review filing, PacifiCorp will report, during the MYRP, on all IRA/IIJA benefits for which it has applied and will participate in a collaborative with other investor-owned utilities regarding the potential benefits of the IRA and IIJA.⁷⁶ The Stipulation is consistent with PacifiCorp's proposal, and will allow the Company to continue to seek out opportunities for cost savings for customers while additionally making necessary investments to improve safety and reliability of its system.⁷⁷

9. Wildfire Mitigation Costs

24 The Company proposed to include in the Test Period \$16,676,335 in O&M associated with Wildfire Mitigation, Vegetation Management, Contractor and National Electric Safety Code Condition Corrections.⁷⁸ None of the Parties opposed the Company's proposal.⁷⁹ The Stipulation accepts the Company's request,⁸⁰ and will enable the Company to make necessary improvements for the safety and reliability of its system.⁸¹

10. Performance Metrics

25 In its initial filing, PacifiCorp proposed eight performance metrics, which consisted of a revised version of eight out of the ten metrics that the Commission recently approved for Puget Sound Energy and Avista.⁸² In response, Staff testified that the Company should instead adopt all ten of the metrics approved in those recent cases.⁸³ TEP also recommended the ten metrics, in

⁷⁶ McVee, Exh. MDM-2T at 18:5-23:18. The Company did not, however, support Staff's proposal to require reporting for the Company's decisions to not pursue funding opportunities. *Id.* at 21:14-22:4.

⁷⁷ Stipulation at ¶ 25; Joint Testimony at 21:12-15.

⁷⁸ Berreth, Exh. No. ALB-3T at 2 (Table 1).

⁷⁹ Joint Issues Matrix at 29. Public Counsel proposed limiting wildfire mitigation and vegetation management to a 10 percent annual increase over the Base Period. Crane, Exh. ACC-1T at 29:8-11. Public Counsel's proposal is addressed below in Section III(B)(7).

⁸⁰ Stipulation at ¶ 26. However, the Stipulation does not address the costs associated with third-party claims relating to wildfires for which the Company seeks a deferred accounting order in Docket No. UE-230495. *Id.*

⁸¹ Joint Testimony at 21:12-15.

⁸² McVee, Exh. MDM-1T at 31 (Table 4).

⁸³ McGuire, Exh. CRM-1T at 49:14-51:5.

addition to several draft metrics proposed in the Commission's generic proceeding on performance-based rate making.⁸⁴ PacifiCorp raised concerns that the additional metrics proposed by Staff and TEP would create additional expense associated with expanded reporting obligations, without any assurance that they will aid the Commission in evaluating the Company's performance under the MYRP.⁸⁵

26 The Stipulation adopts PacifiCorp's eight proposed performance metrics and also requires the Company to report on five of TEP's proposed metrics (1) Average annual bill for the Washington residential class by zip code; (2) Percentage of LIBA program funding dispersed to Washington customers; (3) Washington-allocated net-plant-in-service per customer; (4) Washington-allocated O&M per customer; and (5) Change in average annual price per megawatt-hour for the residential class as compared to inflation.⁸⁶ The Company will address customer benefit indicator conditions in its Clean Energy Implementation Plan (CEIP) proceedings, and additional metrics may be adopted in PacifiCorp's next MYRP, or based on Commission guidance in the ongoing performance-based policy proceeding, Docket U-210590. PacifiCorp agrees that these additional metrics are narrowly tailored, include data that the Company is reasonably able to track, and will provide additional detail to allow the Commission and other stakeholders to evaluate the Company's actions going forward.⁸⁷

⁸⁴ Cebulko, BTC-1T at 8:9-26:2; *Proceeding to Develop a Policy Statement Addressing Alternatives to Traditional Cost of Service Rate Making, including Performance Measures or Goals, Targets, Performance Incentives, and Penalty Mechanisms*, Docket No. U-210590.

⁸⁵ McVee, MDM-2T at 52:15-19.

⁸⁶ Stipulation at ¶ 27. In addition to the performance metrics included in the Stipulation, PacifiCorp also agrees to investigate the costs associated with providing energy burden and affordability data at the census tract level and will provide that information in its next general rate case proceeding. *Id.* at ¶ 28.

⁸⁷ Joint Testimony at 21:13-17.

11. MYRP Annual Review of Provisional Pro-Forma Capital and Earnings Test

27 For the review of provisional pro-forma capital projects, PacifiCorp proposed an annual retrospective review on a portfolio basis, meaning that the capital projects and their costs would be reviewed as an entire portfolio to allow the Company flexibility to adapt its spending to current circumstances to ensure prudence.⁸⁸ Staff supported this proposal,⁸⁹ but AWEC recommended that capital review should instead be conducted on a project-by-project basis.⁹⁰

28 In the Stipulation, the Parties agree that the annual provisional pro-forma capital reviews will be performed at the portfolio level, with the exception of Gateway South, Gateway West, and new wind resources.⁹¹ The Parties agree to the following structure for the earnings test and provisional pro-forma capital review. First, PacifiCorp will make a filing to initiate the provisional pro-forma capital review proceeding, which will determine if any refund is necessary through that process (Capital Review Refund).⁹² After the determination of any refund under the capital review process, the Company's revised rate of return will be compared against the authorized rate of return to determine if any deferral under RCW 80.28.425(6) is necessary (MYRP Earnings Test Deferral).⁹³ The Company will make its annual filing by July 15 of the year following the provisional capital review year, and interested parties will have until February 15 of the following year to complete their review.⁹⁴

29 PacifiCorp supports this compromise because it creates a structure for review of provisional pro-forma capital within the MYRP that will promote efficiency and is consistent

⁸⁸ Cheung, Exh. SLC-1Tr at 21:2-8; McVee, Exh. MDM-2T at 56:13-60:12.

⁸⁹ McGuire, Exh. CRM-1T at 40:1-10.

⁹⁰ Mullins, Exh. BGM-1T at 17:7-20.

⁹¹ Stipulation at ¶ 29.

⁹² *Id.* at ¶ 30(a).

⁹³ *Id.* at ¶ 39(b).

⁹⁴ As an example, for review of provisional capital in calendar year 2023, the Company will complete its initial filing by July 15, 2024 and the review period will extend until February 15, 2025.

with the public interest.⁹⁵ Staff supports this provision because it accepts Staff's position related to the statutory standard for refunds for plant provisionally included in rates and compares the actual used and useful plant with the level of plant included in provisional rates.⁹⁶ Finally, AWEC supports this capital review process because it carves out the discrete large capital additions for individual review, which will ensure that customers receive a refund to the extent that these major capital projects are not placed in service.⁹⁷

12. Cost of Service / Rate Spread / Rate Design

30 In its initial filing, the Company proposed a rate spread for RY1 that would allocate the revenue requirement change to rate schedule classes guided by the results of the cost of service study.⁹⁸ For RY2, the Company proposed applying the increase on an equal percentage basis to all classes.⁹⁹ Based on its analysis of PacifiCorp's Cost of Service Study, AWEC proposed that the Company's lighting schedules—Schedules 15, 51, and 54—be increased by 125 percent of the average rate increase with all other schedules increased by an equal percentage.¹⁰⁰ In rebuttal, the Company modified its proposal and recommended that all classes receive an equal percentage increase except Schedule 48T, Schedule 40, and the lighting classes, which would receive an increase that was one percent higher than the average increase.¹⁰¹ The Stipulation adopts an equal percentage price change for all classes for both years of the MYRP.¹⁰²

31 The Company also proposed to switch from its current tiered rate system to a seasonal rate system for residential customers under which energy rates would be higher in summer

⁹⁵ Joint Testimony at 21:8-12.

⁹⁶ *Id.* at 26:16-20.

⁹⁷ *Id.* at 29:15-20.

⁹⁸ Meredith, Exh. RMM-1T at 9:13-15.

⁹⁹ *Id.* at 9:21-22.

¹⁰⁰ Kaufman, Exh. LDK-1T at 44:10-11.

¹⁰¹ Meredith, Exh. RMM-12T at 9:10-20.

¹⁰² Stipulation at ¶ 31(b).

months and lower in winter months.¹⁰³ Staff and NWECA both opposed this proposal, though Staff indicated that it would entertain the proposal if the Company provided additional evidentiary support.¹⁰⁴ In the Stipulation, the Parties agree that residential energy charges will transition to non-tiered pricing over the two years of the MYRP, with the current tiers being flattened 50 percent in the first year and the remaining change taking effect in the second year.¹⁰⁵

32 In its initial filing, the Company proposed increasing its basic charge from \$7.75 per month to \$10.00 per month for residents of single-family dwellings, and to retain the \$7.75 per month charge for customers in multi-family dwellings.¹⁰⁶ Staff instead recommended an increase to \$8.25 for all residential customers.¹⁰⁷ TEP raised concerns about increasing the basic charge and opposed bifurcating the charge between single-family and multi-family dwellings.¹⁰⁸ Finally, NWECA opposed increasing the basic charge to \$10 because NWECA asserted that costs the Company sought to recover should not be included in the basic charge, that the proposed increase would send a negative price signal for energy efficiency, and that low-income customers would be most impacted by an increase to the customer charge.¹⁰⁹ The Stipulation provides the residential basic charge will increase by \$0.75 for single-family customers and decrease by \$1.00 for multi-family customers.¹¹⁰

33 In sum, PacifiCorp's initial filing included multiple changes to the Company's rate spread and rate design,¹¹¹ and the unopposed proposals were adopted through the Stipulation.¹¹²

¹⁰³ Meredith, Exh. RMM-1T at 24:5-19.

¹⁰⁴ Hillstead, Exh. KMH-1T at 10:2-9, 13:18-14:4; McCloy, Exh. LM-1T at 38:5-11.

¹⁰⁵ Stipulation at ¶ 31(c).

¹⁰⁶ Meredith, Exh. RMM-1T at 11:17-21.

¹⁰⁷ Hillstead, Exh. KMH-1T at 6:5-8.

¹⁰⁸ Stokes SNS-1T at 29:17-30:7.

¹⁰⁹ McCloy, Exh. LM-1T at 27:16-35:11.

¹¹⁰ Stipulation at ¶ 31(d).

¹¹¹ See generally Meredith, Exh. RMM-1T.

¹¹² Stipulation at ¶ 31(f). The only unopposed rate design change proposal that the Stipulation does not adopt is the proposal to incorporate seasonal pricing into the Company's Schedule 24.

For the remainder, the Parties worked together to identify a fair and reasonable compromise, and incorporated these rate spread and rate design proposals in the Stipulation. The Parties agree that the cost of service, rate spread, and rate design terms in the Stipulation are a reasonable compromise given the litigated positions taken by the Parties in previous testimony.¹¹³

13. The results-only Stipulation is lawful and consistent with Commission precedent.

34 Here, the Parties have proposed a results-only Stipulation. The Commission has recognized that results-only stipulated revenue requirements “are not novel” and, in fact, “the Commission has approved many settlements that include such terms[.]”¹¹⁴ The Commission’s authority to adopt results-only terms is consistent with Washington case law, which recognizes that “the economic judgments required in rate proceedings are often hopelessly complex and do not admit of a single correct result.”¹¹⁵ Rather, the Commission exercises discretion “within a fairly broad range” in selecting the appropriate rate.¹¹⁶ Consistent with that authority, the Parties ask the Commission to adopt the revenue requirement increases agreed to in the Stipulation.

B. Public Counsel’s proposed adjustments should be rejected.

35 As an initial matter, Public Counsel has not provided an alternative results-oriented proposal for the Commission’s consideration, nor has Public Counsel articulated its positions on the various discrete components of the Stipulation. However, based on Public Counsel’s opening remarks at the January 12, 2024 hearing,¹¹⁷ the Company understands that Public Counsel is maintaining its pre-Stipulation litigation positions, and therefore addresses those positions in turn, consistent with how Public Counsel articulated them in the Joint Issues Matrix filed with

¹¹³ Joint Testimony at 26:9-11.

¹¹⁴ Dockets UE-220053, UG-220054, UE-210854 (Consolidated), Order 11/05 at ¶ 6.

¹¹⁵ *U.S. W. Commc’ns, Inc. v. Wash. Utils. & Transp. Comm’n*, 134 Wash. 2d 48, 70 (1997) (quoting *Duquesne Light Co. v. Barasch*, 488 U.S. 299, 314 (1989)).

¹¹⁶ *U.S. W. Commc’ns, Inc.* at 56.

¹¹⁷ Paisner, TR. 199:12-16.

the Commission on December 4, 2024. AWEC agrees with the Company’s conclusion that Public Counsel’s proposed adjustments should be rejected, but does not join the specific rationale offered below for each adjustment.

1. Revenue Requirement

36 In response testimony, Public Counsel recommended a revenue requirement increase of \$5,944,543 for RY1, and a revenue requirement increase of \$23,482,867 for RY2.¹¹⁸ Thereafter, in the Joint Issues Matrix, Public Counsel explained that many issues were resolved or narrowed given revisions made by the Company in its rebuttal, and as adjusted for the Company’s rebuttal, Public Counsel’s proposed rate increase is \$3.29 million in RY1 and \$20.09 million in RY2.¹¹⁹ In opening remarks at the settlement hearing, Public Counsel commented that the revenue requirement increases included in the Stipulation are “too high,”¹²⁰ but did not provide any alternative results-only revenue requirement amount.

37 The Company responded to Public Counsel’s various revenue requirement adjustments in the rebuttal testimony of Company witnesses Sherona Cheung and Allen Berreth,¹²¹ and as described above, maintains that the revenue requirement agreed to in the Stipulation is a reasonable balance among the Parties’ interests. The RY1 increase is approximately half of what the Company initially proposed, and the RY2 increase is also reduced from the Company’s

¹¹⁸ Crane, Exh. ACC-3 at 1.

¹¹⁹ Joint Issues Matrix at 1.

¹²⁰ Paisner, TR. 199:12-16.

¹²¹ Public Counsel recommended that the Company update its pension expenses consistent with the most recent actuarial projections, adjust costs relating to the Jim Bridger conversion, and remove certain Colstrip projects that had been removed from the 2024-2025 maintenance plan. Crane, Exh. ACC-1T at 18:15-19:10, 30:8-31:4. The Company agreed to these revisions and adjusted its revenue requirement in rebuttal. Cheung, Exh. SLC-8T at 6:14-7:2, 12:5-14, 17:21-18:8. Public Counsel also proposed limiting the incremental wildfire mitigation and vegetation management costs to a 10 percent annual increase over the Base Period. Crane, Exh. ACC-1T at 29:8-15. PacifiCorp responded to Public Counsel’s assertion that the Company had not adequately explained the increase in these costs, and the Company’s rebuttal cost estimate was incorporated into the Stipulation. *See generally* Berreth, Exh. ALB-3T at 1:21-5:16; Stipulation at ¶ 26. Finally, Public Counsel challenged the Company’s requests to recover deferred expenses. Crane, Exh. ACC-1T at 19:11-26:16. This assertion is addressed below in Section (III)(B)(6).

initial request.¹²² As described in the Joint Testimony, Parties had differing positions in this case but were able to agree on a revenue requirement that is fair, just, and sufficient, balancing customer interests with the Company's interests.

38 Because Public Counsel's proposed adjustments are without merit, Public Counsel has not provided an alternative results-oriented proposal, and the Parties have developed and supported fair and reasonable revenue requirement increases in RY1 and RY2, Public Counsel's proposal should be rejected in favor of the compromise result in the Stipulation.

2. Cost of Capital

39 As described in the Joint Issues Matrix, Public Counsel's position on cost of capital results in an overall rate of return of 7.13,¹²³ in comparison with the 7.29 percent included in the Stipulation.¹²⁴ The impact of Public Counsel's proposed rate of return would be a reduction of approximately \$7.33 million from the Company's initial proposal.¹²⁵

40 The agreed-upon rate of return of 7.29 percent reflects a modest 12 basis point increase relative to the Company's currently authorized return. This modest increase is consistent with current capital market conditions. Indeed, Public Counsel's own testimony points out that since the rate of return was set at 7.17 percent, A-rated public utility bonds have increased roughly 200 basis points (from roughly 3 percent to 5.25 percent),¹²⁶ while 30-year Treasury Yields increased by 258 basis points (from 1.67 percent to 4.25 percent).¹²⁷ Public Counsel's recommended return is directionally inconsistent with the return authorized in the Company's last rate case, given the fact that current market conditions indicate an increase in the Company's cost of equity since the

¹²² Joint Testimony at 3:10-13, 7:1-3.

¹²³ Based on a return on equity of 9.25 percent, cost of long term debt of 5.09 percent, common equity of 49.10 percent.

¹²⁴ Stipulation at ¶ 10.

¹²⁵ Joint Issues Matrix at 6.

¹²⁶ Woolridge, Exh. JRW-4 at 1.

¹²⁷ Woolridge, Exh. JRW-1T at 11, Figure 1.

last rate case, and not a decrease.¹²⁸ In addition, Public Counsel’s cost of capital analysis contained multiple flaws that artificially decreased the recommended rate of return.¹²⁹

41 The cost of capital analyses included in PacifiCorp’s rebuttal testimony demonstrate that the cost of equity increased following the Company’s direct filing, but the Company decreased its requested return on equity in its rebuttal filing, indicating that PacifiCorp’s proposed return was conservative.¹³⁰ The Company’s rebuttal proposal would result in a total rate of return of 7.6 percent.¹³¹ The Stipulation includes an even more conservative 7.29 rate of return,¹³² which the Parties agree is reasonable.¹³³ For the foregoing reasons, the Commission should reject Public Counsel’s position on cost of capital and adopt the cost of capital provided in the Stipulation.

3. Equity

42 Public Counsel asserts that the Commission should find that PacifiCorp failed to provide sufficient support or evidence that it actually conducted an equity analysis of the impact of its proposed rates and that it is insufficient for the Company to simply assert it considered equity in the analysis without an equity analysis of the rate increase proposed.¹³⁴ Public Counsel further claims that the Commission should require an equity analysis in a compliance filing and make rate changes provisional until the Company has complied.¹³⁵

43 The Company responded to Public Counsel’s arguments in detail in the rebuttal testimony of Company witness McVee.¹³⁶ As an initial matter, Public Counsel did not propose any specific methodologies for performing an equity analysis,¹³⁷ and there are currently pending

¹²⁸ Bulkley, Exh. AEB-15T at 20:5-12.

¹²⁹ See, e.g., *id.* at 31:6-15, 33:5-37:22, 52:4-10

¹³⁰ *Id.* at 23:3-24:7.

¹³¹ Joint Issues Matrix at 6.

¹³² Stipulation at ¶ 10.

¹³³ Joint Testimony at 19:7-11.

¹³⁴ Joint Issues Matrix at 1-3.

¹³⁵ *Id.* at 1-2.

¹³⁶ See McVee, Exh. MDM-2T at 37:1-47:7.

¹³⁷ See McVee, Exh. MDM-5.

Commission proceedings which will further inform how parties may approach an equity analysis.¹³⁸ PacifiCorp nonetheless performed an analysis in its rebuttal testimony regarding how the rate increase would affect Highly Impacted Communities and LIBA participants relative to the general customer population.¹³⁹ The analysis demonstrated that the rate impact of the Company’s proposed rate design and price change (as reflected in the Company’s rebuttal) is equitable, since customers in Highly Impacted Communities and those who participate in the LIBA program would experience a lesser bill increase than other residential customers.¹⁴⁰ Although this analysis was performed on the Company’s rebuttal revenue requirement rather than the Stipulation revenue requirement, the same result would apply to the Stipulation revenue requirement because the revenue requirement in the Stipulation is lower than the Company’s proposal in its rebuttal filing.¹⁴¹

44 Additionally, as to Public Counsel’s proposal that rates should be provisional pending additional equity analysis, there is no Commission precedent to support this suggestion. While the Commission has made clear that rates may be provisional for capital investments beyond the test year,¹⁴² there is no legal basis for the Commission to apply a similar standard for an equity analysis. Moreover, Public Counsel’s proposal is problematic because at this time there are no objective metrics available to inform the equity analysis—nor are there metrics to determine

¹³⁸ McVee, Exh. MDM-2T at 27:7-16; Docket U-210590; *Commission Policy Statement to Address the Application of Equity and Justice in Commission and Regulated Companies' Processes and Decisions*, Docket No. A-230217.

¹³⁹ Meredith, Exh. RMM-12T at 33:1-34:5.

¹⁴⁰ McVee, Exh. MDM-2T at 39:11-14.

¹⁴¹ Stipulation at ¶¶ 8-9.

¹⁴² *In the Matter of the Commission Inquiry into the Valuation of Public Service Company Property that Becomes Used and Useful after the Rate Effective Date*, Docket No. U-190531, Policy Statement at ¶ 40 (Jan. 31, 2020) (“The general framework for review of provisional pro forma adjustments requires that: Companies will provide sufficient information to facilitate the review, *including a prudence review*, by Staff or other parties[.]”) (emphasis added).

when rates would cease to be provisional and be made permanent. Accordingly, the Company recommends that the Commission reject Public Counsel’s proposal.¹⁴³

4. Low-Income Bill Assistance

45 Public Counsel argues that the Commission should order the Company to work collaboratively with the LIAG to develop bill-discount rate program changes to be filed with the Commission considering additional discount tiers, self-attestation of income for enrollment, arrearage management, and other features in peer utility bill discount and arrearage management programs and that the Commission should order the Company to conduct equity analyses of rate changes and submit evidence of those analyses in all future filings.¹⁴⁴ The arguments regarding the bill discount program, however, are now moot as these issues are addressed in Paragraph 19 of the Stipulation.¹⁴⁵

46 Additionally, as described above, the Company performed an equity analysis of the proposed rate increase in this case, which, based on the rebuttal filing, concluded that the rate increase will promote equitable outcomes because customers in Highly Impacted Communities and those who participate in the LIBA program would experience a lesser bill increase than other residential customers.¹⁴⁶ Public Counsel’s proposal that the Company be directed to perform an equity analysis of rate increases in subsequent rate cases should be rejected, however, because at this time there is no uniform guidance from the Commission regarding how such an analysis

¹⁴³ To the extent that the Commission may nonetheless find some merit in Public Counsel’s proposal, the Company respectfully requests that the Commission find that the spirit of the recommendation is satisfied by the analysis performed in witness Meredith’s rebuttal testimony.

¹⁴⁴ Joint Issues Matrix at 2-3.

¹⁴⁵ Paragraph 19 provides: “The Company will work with the Low-Income Advisory Group (LIAG) and EAG to develop enhancements to the Low-Income Bill Assistance (LIBA) Program and create an arrearage management plan. PacifiCorp will discuss and seek consensus regarding the following elements of the programs: a. Number of discount tiers. b. Use of self-declaration of income with eligibility verification for a randomly selected group. c. Low-income arrearage management plan. d. Community-based organization outreach program. e. Changing the billing logic so that federal assistance is applied before bill discounts.”

¹⁴⁶ McVee, Exh. MDM-2T at 39:11-14.

should be performed. Instead, if the Commission wishes to provide such direction, the appropriate venue is in a generic policy proceeding. Accordingly, Public Counsel's proposals should be rejected.

5. MYRP – Annual Review of Pro-Forma Capital

47 Public Counsel proposes that the Commission should not consider the prudence of pro forma capital additions in the annual review filings proposed in PacifiCorp's MYRP, but should instead defer prudence determinations for provisional plant until the next general rate.¹⁴⁷ Public Counsel asserts that deferring prudence until the next rate case will lessen the burden on intervenors in accordance with Senate Bill 5295. However, Public Counsel's proposal should be rejected for several reasons.

48 First, Public Counsel's proposal is contrary to the Commission's Policy Statement on Property that Becomes Used and Useful After the Rate Effective Date, in which the Commission explained that the review of provisional pro-forma plant adjustments includes a prudency review by Staff and other parties.¹⁴⁸ Second, as a practical matter, the additional plant review filings in the Company's MYRP will not overly burden stakeholders, as they are narrowly focused and discrete, such that they would not require the same resources for stakeholder review as a general rate case filing.¹⁴⁹ Additionally, Public Counsel's proposal would require stakeholders in the next general rate case to simultaneously perform a backward looking review of the current proposed MYRP at the same time they are performing a forward-looking review of the next MYRP.¹⁵⁰ Relatedly, if the annual reviews determine any refunds are warranted, a delayed

¹⁴⁷ Earle, Exh. RLE-1CT at 12:15-15:18.

¹⁴⁸ Docket No. U-190531, Policy Statement ¶ 40 ("The general framework for review of provisional pro forma adjustments requires that: Companies will provide sufficient information to facilitate the review, *including a prudence review*, by Staff or other parties[.]") (emphasis added).

¹⁴⁹ McVee, Exh. MDM-2T at 24:6-10.

¹⁵⁰ *Id.* at 24:11-14.

review process would significantly extend any period of over-collection and delay associated refunds.¹⁵¹ Finally, it is important to note that the Parties agreed to a seven-month review period, which is twice as long as the Company's initial proposal.¹⁵² Accordingly, Public Counsel's proposals concerning the pro-forma capital review should be rejected.

6. Deferrals

49 Consistent with Commission orders allowing deferred accounting, the Company has deferred \$826,093 for Clean Energy Transition Act (CETA) costs, \$911,209 for the electric vehicle (EV) Pilot Program costs, and \$5,273,956 for COVID-19 costs.¹⁵³ The Company proposed amortizing those costs in the MYRP.¹⁵⁴ Public Counsel recommends that the Commission deny the Company's proposal to amortize these deferrals, because the recovery of regulatory assets should be allowed infrequently and only for a compelling reason, and further claims that the costs are minimal compared to the Company's overall rate base, and thus disallowing a deferral would not present significant harm to the Company or its shareholders.¹⁵⁵ As to the COVID-19 costs, Public Counsel additionally questions the reasonableness of requiring customers to bear the costs incurred by the Company.¹⁵⁶

50 The deferrals for which the Company seeks amortization were evaluated and approved by the Commission, and represent required actions to promote state policy or, in the case of the COVID-19 deferral, to respond to a global emergency. These deferred expenses are legitimate costs incurred by the Company.¹⁵⁷ Additionally, the deferred expenses for the CETA and EV

¹⁵¹ *Id.* at 24:14-17.

¹⁵² Joint Testimony at 16:12; McVee, Exh. MDM-1T at 25:9-10.

¹⁵³ Cheung, Exh. SLC-4 at 261.

¹⁵⁴ Cheung, Exh. SCL-1T at 44:4-21.

¹⁵⁵ Crane, Exh. ACC-1T at 23:12-13, 21:1-15, 24:15-19.

¹⁵⁶ *Id.*, at 25:8-10.

¹⁵⁷ *In the Matter of the Petition of PacifiCorp dba Pacific Power & Light Company, Petitioner, For an Order Approving Deferral of the Costs Associated with the Clean Energy Transformation Act*, Docket No. UE-210414, Order 01 (Mar. 10, 2022); *In the Matter of the Petition of PacifiCorp dba Pacific Power & Light Company*,

Pilot Program are included in the Company's CEIP, which Public Counsel supported.¹⁵⁸ In Docket UE-210829, Public Counsel joined in a settlement agreement with PacifiCorp and other parties in which they agreed that that inclusion of a project in the CEIP could factor into a prudence determination in a future proceeding, although it could not be the only consideration.¹⁵⁹ Curiously, Public Counsel makes no suggestion in that the CETA and EV Pilot Program costs were unreasonable, but instead seems to argue that PacifiCorp's spending on these programs was *too small a portion* of the Company's overall rate base to be recovered.¹⁶⁰ Because the CETA and EV Pilot Program deferred costs were reasonable and approved in the CEIP, the Commission should approve amortization of these deferrals. As to the deferred expenses relating to COVID-19, the Commission approved the Company's deferral of bad debt and customer bill assistance programs in Docket UE-200234. While it is true that the Commission's approval does not necessarily guarantee recovery, the Company requests that the Commission approve amortization of these reasonably incurred costs resulting from the COVID-19 pandemic.

51 The Stipulation provides for the amortization of these deferrals, but also provides for the amortization of the fly ash deferral, and strikes a balance through the amortization of deferrals for both costs and revenues. Public Counsel's one-sided proposal should be rejected.

7. Wildfire Mitigation Costs

52 Public Counsel challenges the Company's incremental wildfire mitigation and vegetation management costs. While Public Counsel notes the importance of wildfire mitigation and their

Petitioner, For an Accounting Order Authorizing Deferral of Costs Related to the Company's Electric Vehicle Pilot Program, Docket No. UE-180809, Order 01 (Jan. 31, 2019); *In the Matter of the Petition of PacifiCorp dba Pacific Power & Light Company, Petitioner, For an Order Approving Deferral of Costs Associated with the COVID-19 Public Health Emergency*, Docket No. UE-200234, Order 01 (Dec. 10, 2020).

¹⁵⁸ *In the Matter of PacifiCorp, dba Pacific Power & Light Company's Clean Energy Implementation Plan*, Docket No. UE-210829, Exh. JS-1T 11:21-12:1; *see also id.* at 10:11-16 (discussing the Company's proposal to establish an EV grant program); *see also id.* at 11:19-12:1 (discussing the Stipulating Parties agreement that the costs anticipated in the settlement were consistent with the Company's requirements under CETA)..

¹⁵⁹ Docket No. UE-210829, Full Multi-Party Settlement Agreement, Attachment A at ¶ 48.

¹⁶⁰ McVee, Exh. MDM-2T at 73:10-15.

support of the Company’s efforts to harden its distribution and transmission assets,¹⁶¹ Public Counsel argues that PacifiCorp has not provided evidence justifying the scale of the increase in these costs from the base period to RY1 and RY2.¹⁶² Public Counsel specifically challenges the increase in costs relating to “situational awareness,” which they assert were not adequately supported. Public Counsel instead proposes that the increase should be limited to a 10 percent annual increase over the Base Period, decreasing revenue requirement by \$632,602.¹⁶³

53 As PacifiCorp explained in rebuttal, its cost forecast is based on detailed knowledge of the individual programs and is more precise than Public Counsel’s recommendation.¹⁶⁴ In the context of wildfire mitigation, situational awareness involves having sophisticated, dynamic risk modeling capabilities that aggregate environmental conditions from the weather station network with known terrain conditions, electrical infrastructure, and historical data to extrapolate a risk forecast of potential events to inform operational strategies, response to local conditions, and influence decision making.¹⁶⁵ Because this is a completely new function for PacifiCorp, it is reasonable to expect that the costs of implementation would be higher compared to the Base Period as the Company establishes and refines its Washington Wildfire Mitigation Plan.¹⁶⁶

54 In addition to these situational awareness costs, the increased O&M costs include roughly 2,000 additional National Electric Safety Code condition corrections per year and the increased labor rate expenses associated with delivering the work activity necessary to mitigate wildfire risk.¹⁶⁷ These increases in both the quantity of wildfire mitigation activity and the labor rates for that activity are the specific drivers for the O&M increases outside of the Wildfire Mitigation

¹⁶¹ Crane, Exh. ACC-1T at 27:8-11.

¹⁶² *Id.* at 28:3-5.

¹⁶³ *Id.* at 29:8-11; Exh. ACC-3 at 7.

¹⁶⁴ Berreth, ALB-3T at 1:16-17.

¹⁶⁵ *Id.* at 3:10-16.

¹⁶⁶ *Id.* at 3:21-4:5.

¹⁶⁷ *Id.* at 5:4-16.

Plan and the vegetation management program. In the Stipulation, the Parties agree that PacifiCorp's identified wildfire mitigation O&M are reasonable and should be recovered.¹⁶⁸ Accordingly, the Wildfire O&M included in the Stipulation are reasonable and well supported, and the Commission should reject Public Counsel's proposed adjustment.

C. The Stipulation addresses the consideration of equity and energy justice in the MYRP and in future proceedings.

55 At the settlement hearing, Public Counsel asked the witnesses providing the Joint Testimony in support of the Stipulation questions about how the Stipulation addresses equity,¹⁶⁹ insinuating that the Stipulation addresses equity only on a forward-looking basis in future rate cases,¹⁷⁰ and further that the Joint Testimony did not provide adequate discussion regarding equity considerations.¹⁷¹ As the settlement witnesses testified at the hearing, the Stipulation addresses equity both over the term of the MYRP and in future rate case filings, and is supported by the Joint Testimony and the record of the Parties' testimony in this proceeding.¹⁷²

1. The Stipulation will promote equitable outcomes over the term of the MYRP.

56 Staff explained that, in its view, an equitable outcome means "any outcome that successfully promotes the core tenets of energy justice. So therefore, equitable outcomes should, in staff's opinion, demonstrate a reduction of systemic harm and promote the core tenets of

¹⁶⁸ Stipulation at ¶ 26. However, the Stipulation does not address the costs associated with third-party claims relating to wildfires for which the Company seeks a deferred accounting order in Docket No. UE-230495. *Id.*

¹⁶⁹ *See, e.g.,* McVee, TR. 203:1-6 ("Has the Company conducted an equity analysis in connection with the rate increase in this settlement agreement?") (question from Public Counsel attorney Ann Paisner).

¹⁷⁰ *See, e.g., id.* at 204:19-21 ("Just to clarify, those things are forward-looking; right? They don't address the current rate increase that would go into effect on March 1st?") (question from Public Counsel attorney Ann Paisner).

¹⁷¹ *See, e.g., id.* at 207:11-13 ("Joint testimony does not present any evidence of either a correction or a perpetuation of inequities, does it?") (question from Public Counsel attorney Ann Paisner).

¹⁷² *Id.* at 209:25-210:16.

energy justice.”¹⁷³ The Stipulation includes many specific provisions addressing equity and promoting equitable outcomes during the term of the MYRP:

- Transitioning to non-tiered rates over the term of the MYRP;¹⁷⁴
- Including a modest increase to the Residential Basic Charge of \$0.75 for single-family customers and a decrease for multi-family customers;¹⁷⁵
- Until the credit and collections rulemaking is completed, temporarily changing the threshold for disconnecting customers for nonpayment from \$50 to \$150;¹⁷⁶
- Conducting a robust equity review of policies and procedures for disconnecting customers for nonpayment, in consultation with the LIAG and EAG.¹⁷⁷
- Developing enhancements to the LIBA Program including arrearage management plans,¹⁷⁸ with the Company proposing a package with LIBA improvements by April 2025, requesting Commission approval by October 1, 2025;¹⁷⁹
- Within six months of the Commission’s final order in this proceeding the Company must create and share a draft Language Access Plan,¹⁸⁰ with reporting on accomplishments of objectives in the Language Annual Plan in each LIBA annual report.¹⁸¹

57 In Paragraph 19 of the Stipulation, the Company commits to engaging with advisory groups, which addresses the Commission’s guidance relating to “procedural justice” and will ensure that the LIBA program enhancements and Language Access Plan meet the needs of low-income and non-English speaking customers.¹⁸² On these points, TEP witness Stokes testified that the Stipulation requires “the Company to take steps to more thoroughly incorporate equity into its operations as on stipulation 9 as well as into some of its programming, which is in the low-income stipulation 10. I do specifically think that the low-income terms will result in changes that help benefits spread to named communities more fairly.”¹⁸³ Witness Stokes further

¹⁷³ McGuire, TR. 218:22-219:2.

¹⁷⁴ Stipulation at ¶ 31(c).

¹⁷⁵ *Id.* at ¶ 31(d).

¹⁷⁶ *Id.* at ¶ 23.

¹⁷⁷ *Id.*

¹⁷⁸ *Id.* at ¶ 19.

¹⁷⁹ *Id.* at ¶ 20.

¹⁸⁰ *Id.* at ¶ 22.

¹⁸¹ *Id.* at ¶ 22(d).

¹⁸² See *WUTC v. Puget Sound Energy*, Docket Nos. UE-220066 and UG-220067, Order 24/10 at ¶ 226 (Dec. 22, 2022).

¹⁸³ Stokes, TR. 239:3-10.

testified that two ways in which the settlement addresses historic inequities and systems of oppression is by adopting TEP's recommendation for the Language Access Plan, and through improvements to the Company's low-income weatherization program.¹⁸⁴ NWECC also expressed support for these provisions in its testimony at the settlement hearing.¹⁸⁵

58 While the Company's and the Commission's analysis of equity is ongoing and may be refined in the future, there is ample evidence in the record demonstrating that the requirements in the Stipulation will contribute to equitable outcomes during the term of the MYRP.¹⁸⁶

2. The Stipulation provides clear guidance to the Company to inform equity analysis in future rate case filings.

59 The Stipulation also requires the Company to make progress in addressing equity concerns in future rate cases. Importantly, the Company will collaborate with the Parties on a methodology to develop an equity framework to evaluate in the Company's next general rate case based on the tenets of equity developed by the Lawrence Berkeley National Laboratory.¹⁸⁷ This comprehensive framework will benefit from input from the Parties, and will provide a structure for the Company's analysis, ensuring improved documentation of the Company's progress towards more equitable processes and outcomes.¹⁸⁸ Additionally, the Stipulation includes a requirement to develop a DEA to be used alongside the traditional benefit-cost analysis in the capital planning process for capital projects that are situs-assigned to Washington.¹⁸⁹ The compliance filing for the DEA is due at the end of the MYRP, and will provide guidance for the Company to use in its next rate case.¹⁹⁰ Thus, the Stipulation ensures

¹⁸⁴ *Id.* at 239:11-240:14.

¹⁸⁵ McCloy, TR. 245:4-246:20.

¹⁸⁶ Joint Testimony at 28:8-10.

¹⁸⁷ Stipulation at ¶ 18.

¹⁸⁸ Joint Testimony at 36:7-10.

¹⁸⁹ Stipulation at ¶ 18(a).

¹⁹⁰ *Id.*; McVee, TR. 207:19-24 (regarding the DEA analysis, "what the stipulation does from, you know, the Company's perspective is that it sets some standards for us to use for the next rate case. And so I believe the stipulation does address inequities in that it establishes a process going forward that the Company can use.").

action relating to equity in the MYRP and in future rate cases. As Staff testified, the terms in the Stipulation “make significant progress toward equitable outcomes” and “require[] the Company to take specific concrete steps toward achieving equity.”¹⁹¹

D. The Commission should decline Staff’s request to establish forward-looking equity policy in the Company’s rate case.

60 In conferring with Stipulating Parties prior to filing post-hearing briefs, Staff shared with PacifiCorp that it plans to include in its brief a request for guidance from the Commission regarding equity issues that may be broadly applied in future cases. That is, while supporting the Stipulation, Staff also asks the Commission to provide policy direction for future cases that may be applicable to PacifiCorp and to other utilities. The Company respectfully requests that the Commission decline to set forward-looking policy in the Company’s rate case order, which would be inappropriate for a multitude of procedural and policy reasons.

61 *First*, the questions posed by Staff invite the Commission to set broadly applicable policy on several discrete equity-related issues without the benefit of input from necessary parties. As discussed in the rebuttal testimony of Company witness Matt McVee, establishing equity-related policy in a rate case is suboptimal, as it may not reflect the input of all stakeholders that may wish to engage on these issues.¹⁹² For example, while utilities may monitor the rate case proceedings of their peer utilities, they typically do not intervene and actively participate in those cases—and indeed, no other utilities sought to intervene or participate in this case. Staff’s request to set policy that may impact PacifiCorp and other utilities is entirely inappropriate for the development of thoughtful, well informed policy. The Commission has previously

¹⁹¹ McGuire, TR. 219:3-6.

¹⁹² McVee, Exh. MDM-2T at 28:9-30:4.

recognized that it is important to set broadly applicable policy in a forum where impacted parties have the opportunity to weigh in.¹⁹³

62 *Second*, the purpose of this case was to establish rates for PacifiCorp for the term of the MYRP, and not to establish equity policy to be applied in future proceedings. Considering the purpose of this case—as well as the fact that a settlement was reached in this proceeding—the Company did not seek to develop a record regarding the treatment of equity-related issues in subsequent MYRPs. Indeed, to PacifiCorp’s knowledge, no party developed such a record. Here, the Commission should decline to provide policy guidance that is not informed by the record.¹⁹⁴

63 *Third*, because parties were not aware that Staff would be raising these issues until the day before the briefs were due, the parties in this proceeding have not weighed in on these issues in briefing. PacifiCorp understands that Staff’s brief poses unanswered questions regarding legislative intent—without thorough briefing or further discussion of relevant legislative history. In addition to the record being underdeveloped, the briefing on these questions is inadequate and one-sided, and does not provide sufficient basis for the Commission to provide guidance.

64 *Finally*, there are already two open proceedings that provide the appropriate forum for establishing forward-looking guidance regarding equity issues.¹⁹⁵ If the Commission were to

¹⁹³ See *WUTC v. Qwest Corp. d/b/a CenturyLink QC*, Docket UT-171082, Order 03 at ¶ 21 (Aug. 23, 2018) (deciding not to address in a complaint proceeding an issue affecting the line extension obligations for all incumbent local exchange carriers because “[s]uch issues are much better addressed in a broader proceeding in which all affected stakeholders can participate”); see also *id.* at ¶ 32 (acknowledging that the utility identified a concerning ambiguity in the Commission’s line extension rules but opening a separate rulemaking docket rather than resolving that ambiguity in a complaint docket).

¹⁹⁴ See *In the Matter of the Joint Application of Verizon Commc’ns and MCI, Inc. for Approval of Agreement and Plan of Merger*, Docket No. UT-050814, Order 07 at ¶ 156 (Dec. 23, 2005) (declining to adopt a proposed condition because the “matter was not adequately developed on the record”).

¹⁹⁵ There is a pending policy proceeding, Docket U-210590, where the Commission plans to adopt a policy statement addressing alternatives to traditional cost of service rate making, including performance measures or goals, targets, performance incentives, and penalty mechanisms. Additionally, in 2023, the Commission initiated an equity-focused proceeding, Docket A-230217. The Commission clarified that it would solicit stakeholder input

establish new forward-looking policy in this case, it would turn the administrative process on its head and inappropriately pre-determine the outcome of the ongoing policy proceedings without the benefit of input from stakeholders.¹⁹⁶ It may be that Staff seeks guidance more quickly than will be provided in the policy proceedings. However, Staff’s desire for a quick answer does not warrant subverting the process in the ongoing proceedings. If the Commission agrees with Staff that it is important to provide guidance on an expedited basis, the appropriate way to do so would be to solicit input and briefing from impacted stakeholders in the policy proceedings.

65 Accordingly, the Company respectfully requests that the Commission decline Staff’s request. Importantly, the Commission can and should adopt the Stipulation in its entirety without reaching the questions posed by Staff.

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concerning the four tenets of equity justice in turn, first exploring procedural justice, followed by distributional justice, recognition justice, and then restorative justice. Docket A-230217, Notice of Opportunity to File Written Comments at 3 (Sept. 29, 2023).

¹⁹⁶ See *WUTC v. Puget Sound Energy*, Dockets UE-190529 *et al.*, Final Order 08/05/03 at ¶ 468 (July 8, 2020) (agreeing that, when the Commission’s consideration of a utility’s cost of service study (COSS) coincided with a general proceeding that ultimately adopted new COSS guidelines, it was beneficial to “hold the course steady [in the utility’s case] until we have a better idea of where these new methodologies will take us”); see also *id.* at ¶ 469 (acknowledging that a party’s concerns relating to a COSS should instead have been raised in the generic COSS rulemaking docket).

IV. CONCLUSION

69 For the foregoing reasons, the Commission should find the Stipulation to be lawful, supported by the record, and consistent with the public interest, and approve it without modifications or additional conditions.

70 Respectfully submitted this 2nd day of February 2024.



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