33. In SOAH Order No. 4 filed on September 7, 2022, the SOAH ALJs consolidated the review of the municipal ordinances adopted by the following municipalities: Kountze, Cleveland, Normangee, Plum Grove, Hardin, Devers, North Cleveland, Plantersville, and China.

34. In SOAH Order No. 5 filed on September 19, 2022, the SOAH ALJs consolidated the review of the municipal ordinances adopted by the following municipalities: Cut and Shoot, Corrigan, Bevil Oaks, and Chester.

35. In SOAH Order No. 8 filed on October 25, 2022, the SOAH ALJs consolidated the review of the municipal ordinances adopted by the following municipalities: Willis, Groves, and Nederland.

36. In SOAH Order No. 11 filed on December 1, 2022, the SOAH ALJs consolidated the review of the municipal ordinances adopted by the following municipalities: Dayton, Sour Lake, Port Neches, Navasota, Orange, Liberty, Pinehurst, Port Arthur, Anahuac, Bridge City, Rose City, Vidor, and Roman Forest.

37. In SOAH Order No. 13 filed on December 16, 2022, the SOAH ALJs consolidated the review of the municipal ordinances adopted by the following municipalities: Silsbee, Beaumont, and Pine Forest.

38. In SOAH Order No. 15 filed on January 24, 2023, the SOAH ALJs consolidated the review of the municipal ordinance adopted by the City of West Orange.

39. In SOAH Order No. 16 filed on February 16, 2023, the SOAH ALJs consolidated the review of the municipal ordinances adopted by the following municipalities: Huntsville, Splendora, Montgomery, Conroe, Shenandoah, Panorama Village, and Rose Hill Acres.

40. In Order No. 1 filed on June 6, 2023, the Commission ALJ consolidated the review of the municipal ordinances adopted by the following municipalities: Oak Ridge North and Shepherd.

Testimonies and Statements of Position

41. On July 1, 2022, Entergy Texas included with its application the direct testimonies of Eliecer Viamontes, Jess K. Totten, Richard D. Starkweather, Ann E. Bulkley, Bobby R. Sperandeo, Beverley Gale, Gary C. Dickens, Khamsune Vongkhamchanh, William

Phillips, Jr., Melanie L. Taylor, Stuart Barrett, David C. Batten, Andrew L. Dornier, Anastasia R. Meyer, Stacey L. Whaley, Allison P. Lofton, Ryan M. Dumas, Dawn D. Renton, Jennifer A. Raeder, Paula R. Waters, Leslie Dennis, Daniel T. Falstad, Molly C. Griffin, Ryan C. Bennett, Jay Joyce, Gregory S. Wilson, Sean C. McHone, Dane A. Watson, Alyssa Maurice-Anderson, Lori A. Glander, CHP, Elizabeth S. Hunter, Kristin Sasser, Richard E. Lain, Crystal K. Elbe, Meghan E. Griffiths, David E. Hunt, and Samantha F. Hill.

42. On October 13, 2022, Entergy Texas filed the supplemental direct testimony of Meghan E. Griffiths.

43. On October 14, 2022, Entergy Texas filed the supplemental direct testimony of Richard E. Lain.

44. On October 26, 2022, Walmart filed the direct testimonies of Alex J. Kronauer and Lisa V. Perry; SPS filed the direct testimony of Jeremiah Cunningham; Sierra Club filed the direct testimony of Devi Glick; Cities filed the direct testimonies of Karl J. Nalepa, Kevin W. O'Donnell, David J. Garrett, and Norman J. Gordon; OPUC filed the direct testimonies of Evan D. Evans and Constance T. Cannady; TIEC filed the direct testimonies of Charles S. Griffey, Jeffry Pollock, and Michael P. Gorman; and ChargePoint filed the direct testimony of Justin D. Wilson.

45. On October 26, 2022, AACE and El Paso Electric filed statements of position.

46. On October 27, 2022, Cities, Sierra Club, and TIEC filed workpapers in support of their witnesses' testimonies.

47. On November 1, 2022, FlashParking filed the corrected testimony of Matthew McCaffree.

48. On November 2, 2022, Commission Staff filed the direct testimonies of William B. Abbott, Emily Sears, Mark Filarowicz, and Ruth Stark.

49. On November 9, 2022, Commission Staff filed the late direct testimony of Ethan Blanchard.

50. On November 16, 2022, Entergy Texas filed the rebuttal testimonies of Stuart Barrett, David C. Batten, Allen J. Becker, Stefan Boedeker, Ann E. Bulkley, Gary C. Dickens,

Andrew L. Dornier, Ryan M. Dumas, Crystal K. Elbe, Meghan E. Griffiths, Samantha F. Hill, Richard E. Lain, Allison P. Lofton, Ryan Magee, Sean C. McHone, Anastasia R. Meyer, Jennifer A. Reader, Kristen Sasser, Bobby R. Sperandeo, Richard D. Starkweather, Melanie L. Taylor, Jess K. Totten, Dane A. Watson, Gregory S. Wilson, and Willie M. Wilson.

51. On November 16, 2022, ChargePoint filed the cross-rebuttal testimony of Justin Wilson, SPS filed the cross-rebuttal testimony of Jeremiah W. Cunningham, Cities filed the cross-rebuttal testimony of Karl J. Nalepa, OPUC filed the cross-rebuttal testimony of Evan D. Evans, and TIEC filed the cross-rebuttal testimony of Jeffry Pollock.

52. On November 17, 2022, Entergy Texas filed workpapers in support of its witnesses' rebuttal testimonies.

53. On November 29, 2022, OPUC filed errata to the direct testimony of Evan D. Evans.

54. On November 30, 2022, Sempra, AACE, and Sierra Club filed statements of position.

55. On December 1, 2022, TIEC filed errata to the direct testimonies of Jeffry Pollock, Charles S. Griffey, and Michael P. Gorman.

56. On December 1, 2022, Cities filed errata to the direct testimony of Mark E. Garrett.

57. On December 2, 2022, Entergy Texas filed errata to the rebuttal testimonies of Allen J. Becker and Anastasia R. Meyer.

58. On December 5, 2022, Commission Staff filed errata to the direct testimony of Ethan Blanchard.

59. On February 2, 2023, Cities filed the supplemental direct testimony of Norman J. Gordon.

60. On February 2, 2023, Entergy Texas filed the second supplemental direct testimonies of Meghan E. Griffiths and Richard E. Lain.

61. On February 15, 2023, Commission Staff filed the supplemental direct testimony of Ruth Stark.

62. On February 22, 2023, Entergy Texas filed the supplemental rebuttal testimonies of Meghan E. Griffiths, Richard E. Lain, and Ryan A. Dumas.

Referral to SOAH and Evidentiary Record

63. On July 6, 2022, the Commission referred this case to SOAH.

64. On August 4, 2022, the Commission issued a preliminary order.

65. On December 16, 2022, Entergy Texas filed a joint motion to admit evidence on behalf of itself, Commission Staff, OPUC, Cities, TIEC, Sierra Club, Kroger, Federal Executive Agencies, Walmart, FlashParking, SPS, ChargePoint, Sempra, AACE, and El Paso Electric.

66. Entergy Texas requested that the documents identified in exhibit A attached to its joint motion be admitted into evidence.

67. In SOAH Order No. 14 filed on December 28, 2022, the SOAH ALJs admitted the documents listed in exhibit A attached to the joint motion.

68. On May 10, 2023, Entergy Texas filed an unopposed agreement on behalf of itself, Commission Staff, OPUC, TIEC, Sierra Club, Kroger, Federal Executive Agencies, and Walmart. Cities, AACE, ChargePoint, SPS, El Paso Electric, Sempra, and FlashParking were not signatories to the agreement but did not oppose it.

69. On May 10, 2023, Entergy Texas filed a second joint motion to admit evidence on behalf of itself, Commission Staff, OPUC, Cities, TIEC, Sierra Club, Kroger, Federal Executive Agencies, Walmart, FlashParking, SPS, ChargePoint, Sempra, AACE, and El Paso Electric.

70. In SOAH Order No. 20 filed on May 10, 2023, the SOAH ALJ admitted the documents listed in exhibit A attached to the second joint motion to admit evidence and granted a partial remand to the Commission of the uncontested issues, excluding contested preliminary-order issues 68 and 69.

Interim Rates

71. On May 10, 2023, Entergy Texas filed an agreed motion for interim rates.

72. In SOAH Order No. 20 filed on May 18, 2023, the SOAH ALJs granted the agreed motion for interim rates effective with consumption on and after the tenth business day after issuance of that order.

73. The interim rates are identical to the agreed rates approved by this Order.

Severance of Preliminary Order Issues 68 and 69

74. In SOAH Order No. 11 filed on December 1, 2022, the SOAH ALJs adopted Entergy Texas's proposal to have preliminary-order issues 68 and 69 decided on written submission.

75. On June 19, 2023, the SOAH ALJ filed a proposal for decision.

76. In an order filed on August 16, 2023, the Commission severed into a separate proceeding preliminary-order issues 68 and 69 related to transportation electrification charging infrastructure for further processing by Docket Management.

Good-Cause Exception to Certain Filing Requirements

77. In its application, Entergy Texas requested a good-cause exception to the requirement in 16 Texas Administrative Code (TAC) § 22.243(b) to file certain schedules and workpapers required by the Commission's rate filing package. Entergy Texas requested waivers for the following: (a) not to include forecasted fuel information because Entergy Texas was not seeking to revise its fuel factor in this proceeding; (b) not to provide schedules that pertain exclusively to historical, reconcilable fuel costs and revenues in light of the Commission's determination in Project No. 41905 that fuel reconciliation cases are separately filed proceedings;[1] (c) not to include energy-efficiency information under schedule N in light of the requirements of PURA[2] § 39.905 and 16 TAC § 25.182; (d) not to include schedule S regarding test-year review—a waiver that the Commission granted to Entergy Texas in Docket No. 52851;[3] and (d) to use the Commission's standard protective order rather than the confidentiality disclosure agreement in the rate filing package because the standard protective order better reflects current Commission practice.

[1] *Rulemaking Proceeding to Amend PUC Subst. R. 25.236 Relating to Recovery of Fuel Costs*, Project No. 41905, Order Adopting Amendments to § 25.236 as Approved at the May 16, 2014 Open Meeting at 23 (May 29, 2014).

[2] Public Utility Regulatory Act, Tex. Util. Code §§ 11.001–66.016 (PURA).

[3] *Application of Entergy Texas Inc. for Waiver of Rate Filing Package Schedule* S, Docket No. 52851, Order (Apr. 21, 2022).

78. The scope of Entergy Texas's application and the specific facts of this docket constitute good cause under 16 TAC § 22.5(b) to except Entergy Texas from compliance with the requirements of 16 TAC § 22.243(b) to the extent described in this Order.

Agreement – Overall Revenue Requirement, Base Rates, GCRR, TCRF, and DCRF

79. The signatories agreed to an overall increase in base-rate revenues of $54 million, exclusive of, and incremental to, costs being realigned to base rates from Entergy Texas's generation cost recovery rider, transmission cost recovery factor, and distribution cost recovery factor, and also exclusive of, and incremental to, rate-case expenses approved by this Order. Under the agreement, Entergy Texas's non-fuel revenue requirement is $1,227,384,124.

80. The base-rate increase will relate back to December 3, 2022, the 155th day after Entergy Texas's rate application was filed.

81. The base-rate increase is effective for consumption on and after December 3, 2022.

82. It is appropriate for a surcharge giving effect to the December 3, 2022 relate-back date to be implemented through a rider in a separate docket.

83. Under the agreement, Entergy Texas's current generation cost recovery rider, transmission cost recovery factor, and distribution cost recovery factor will be reduced to zero, and the current amounts reflected in those riders will be realigned into base rates.

84. The agreed baselines for transmission cost recovery factor, distribution cost recovery factor, purchased capacity recovery factor, and generation cost recovery riders are set forth in attachment D to the agreement.

85. The revenues produced by the rates approved by this Order will be sufficient to cover Entergy Texas's expenses and provide Entergy Texas a reasonable opportunity to earn a reasonable rate of return.

86. The baselines established for transmission cost recovery factor, distribution cost recovery factor, purchased capacity recovery factor, and generation cost recovery riders as set forth in attachment D to the agreement are reasonable.

87. The agreement's treatment of revenue-requirement issues is appropriate.

Agreement – Capital Investment

88. Entergy Texas's capital investments included in rate base and closed to plant through December 31, 2021 are used and useful and were prudently incurred.

Agreement – Rate-Case Expenses

89. In its application, Entergy Texas requested approximately $9.2 million in rate-case expenses, composed of $807,416 in actual expenses associated with Entergy Texas's last fuel reconciliation proceeding, Docket No. 49916,[4] and $8,435,000 in rate-case expenses incurred as of March 31, 2022 in association with this docket and estimated rate-case expenses that Entergy Texas expected to incur through the pendency of this docket.

90. In support of its rate-case expenses, Entergy Texas filed the direct, supplemental, and second supplemental testimonies of Richard E. Lain, manager of regulatory affairs; the affidavit, supplemental affidavit, and second supplemental affidavit of attorney Erika N. Garcia, director of regulatory affairs; and the direct, supplemental, and second supplemental testimonies of attorney Meghan E. Griffiths, a partner with the law firm of Jackson Walker, LLP. In reaching an opinion on the reasonableness of rate-case expenses incurred in this docket and in Docket No. 49916, Entergy Texas's witnesses relied on the factors in 16 TAC § 25.245(b).

91. The signatories agreed for Entergy Texas to recover $4,805,630.19 in rate-case expenses incurred in this docket through December 31, 2022 and in Docket No. 49916. The signatories agreed for Entergy Texas to recover this amount over 36 months under schedule RCE-5, the form of which is attached to the agreement as attachment F.

92. The signatories agreed that within 60 days of the Commission's final order in this docket, Entergy Texas will file a completed schedule RCE-5 with rates designed to collect the agreed rate-case expenses.

93. The signatories agreed that Entergy Texas's rate-case expenses incurred in this docket after December 31, 2022 will be deferred in a regulatory asset and that Entergy Texas may seek recovery of those amounts in a future proceeding.

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[4] *Application of Entergy Texas, Inc. for Approval to Reconcile Fuel and Purchased Power Costs*, Docket No. 49916, Order (Aug. 27, 2020).

94. The signatories agreed that Entergy Texas will promptly reimburse Cities $78,339 for rate-case expenses incurred after December 31, 2022. This amount will also be included in the regulatory asset, and Entergy Texas and Commission Staff agreed not to contest Entergy Texas's recovery of these amounts in a future proceeding.

95. The agreed rate-case expenses incurred in this docket and in Docket No. 49916 in the amount of $4,805,630.19 are reasonable.

96. The agreement's treatment of rate-case expenses is appropriate.

<u>Agreement – Riders</u>

97. The signatories agreed on Entergy Texas's proposed non-rate-related changes to existing tariffs, with the exception of the proposed changes to schedule standby and maintenance service and to the rider to schedules LIPS, LIPS-TOD, and interruptible service.

98. The signatories' agreed revisions to schedule standby and maintenance service and to the rider to schedules LIPS, LIPS-TOD, and interruptible service are in attachment C to the agreement.

99. The agreement's treatment of changes to existing tariffs is appropriate.

100. Entergy Texas proposed three new riders related to market valued demand response (MVDR), a green future option (GFO), and deferred tax accounting (DTA).

101. Entergy Texas's proposed rider MVDR defines the parameters under which Entergy Texas's end-use customers can participate in the demand-response markets of the Midcontinent Independent System Operator Inc. (MISO).

102. Under rider MVDR, Entergy Texas acts as the market participant on behalf of end-use retail customers that an aggregator of retail customers has aggregated and contracted with. Entergy Texas will register those demand-response resources with MISO and pass through proceeds from MISO to the aggregator of retail customers to in turn pass on to the retail customers.

103. Under rider MVDR, end-use retail customers and aggregators of retail customers are not able to participate as a demand-response resource in MISO's wholesale markets except

through rider MVDR or through other demand-response efforts implemented by Entergy Texas.

104. Entergy Texas's proposed rider GFO enables eligible customers to indirectly access renewable energy from the 150-MW Umbriel solar project under construction in Polk County, Texas. Participating customers pay a fixed monthly charge based on the size of their portion of the overall solar resource portfolio and have the renewable energy credits associated with their share of the actual energy output retired on their behalf.

105. Entergy Texas's proposed rider DTA tracks unfavorable Internal Revenue Service decisions on uncertain tax positions that Entergy Texas is required to record as a tax liability under generally accepted accounting principles. The rider permits Entergy Texas to collect, on a prospective basis, the after-tax return on amounts actually paid to the Internal Revenue Service.

106. Rider DTA incentivizes Entergy Texas to take uncertain tax positions that inure to ratepayers' benefit while providing some level of compensation to Entergy Texas if those positions are ultimately reversed.

107. The signatories agreed on Entergy Texas's new riders related to MVDR, GFO, and DTA as proposed.

108. The agreement's treatment of Entergy Texas's proposed new riders is appropriate.

Agreement – Return and Capital Structure

109. The signatories agreed on the following: a weighted average cost of capital of 6.61%, an authorized return on equity of 9.57% based on a cost of debt of 3.47% and a cost of preferred stock of 5.35%, and a regulatory capital structure of 51.21% equity, 0.81% preferred stock, and 47.97% long-term debt.

110. The agreement's treatment of return on equity and weighted average cost of capital is appropriate.

111. It is appropriate for the agreed overall authorized rate of return (or the weighted average cost of capital in the agreement), return on equity, cost of debt, cost of preferred stock, and

capital structure for Entergy Texas to apply in all Commission proceedings or Commission filings requiring the application of those items.

Agreement – Cash Working Capital for Earnings Monitoring Report

112. As agreed by the signatories, for purposes of Entergy Texas's earnings monitoring reports for reporting years beginning in 2023, cash working capital included in rate base is negative $8,559,750.

113. Entergy Texas calculated its cash working capital using a lead-lag study.

114. The agreement's treatment of cash working capital is appropriate.

Agreement – Affiliate Expenses

115. To the extent that affiliate costs are included in the agreed revenue requirement, the affiliate costs included in the agreed rates are reasonable and necessary for each class of affiliate costs presented in Entergy Texas's application.

116. To the extent that affiliate costs are included in the agreed revenue requirement, the prices charged by Entergy Texas's affiliates to Entergy Texas that are included in the agreed rates are not higher than the prices charged by the supplying affiliate for the same item or class of items to its other affiliates or divisions or to a non-affiliated person within the same market area or having the same market conditions.

117. The agreement's treatment of affiliate expenses is appropriate.

Agreement – Financial Protections (Ring-Fencing)

118. The signatories agreed on the following ring-fencing provisions:

    a. Entergy Texas Credit Ratings. Entergy Texas will work to ensure that its credit ratings at S&P and Moody's remain at or above Entergy Texas's current credit ratings.

    b. Notification of Less-than-Investment-Grade Rating. Entergy Texas will notify the Commission if its credit issuer rating or corporate rating as rated by either S&P or Moody's falls below investment-grade level.

    c. Stand-Alone Credit Rating. Entergy Texas will take the actions necessary to ensure the existence of an Entergy Texas stand-alone credit rating.

d. No Sharing of a Credit Facility. Entergy Texas will not share a credit facility with any unregulated affiliates.

e. No Entergy Texas Debt Secured by Non-Entergy Texas Assets. Entergy Texas's debt will not be secured by non-Entergy Texas assets.

f. No Entergy Texas Assets Pledged for Other Entities' Debt. Entergy Texas's assets will not secure the debt of Entergy Corporation or its non-Entergy Texas affiliates. Entergy Texas's assets will not be pledged for any other entity.

g. No Credit for Affiliate Debt. Entergy Texas will not hold out its credit as being available to pay the debt of any Entergy affiliates.

h. No Commingling of Assets. Except for access to the utility-money pool and the use of shared assets governed by the Commission's affiliate rules, Entergy Texas will not commingle its assets with those of other Entergy affiliates.

i. Affiliate Asset Transfer Commitment. Entergy Texas will not transfer any material assets or facilities to any affiliates, other than a transfer that is on an arm's-length basis in accordance with the Commission's affiliate standards applicable to Entergy Texas, regardless of whether such affiliate standards would apply to the particular transaction.

j. No Debt Disproportionately Dependent on Entergy Texas. Without previous approval of the Commission, neither Entergy Corporation nor any affiliate of Entergy Corporation (excluding Entergy Texas) will incur, guaranty, or pledge assets in respect of any incremental new debt that is dependent on (1) the revenues of Entergy Texas in more than a proportionate degree than the other revenues of Entergy Corporation or (2) the stock of Entergy Texas.

k. No Bankruptcy Cost Commitment. Entergy Texas will not seek to recover from customers any costs incurred as a result of a bankruptcy of Entergy Corporation or any of its affiliates.

l. No Cross-Default Provision. A no cross-default provision, that Entergy Texas's credit agreements and indentures will not contain cross-default provisions whereby a default by Entergy Corporation or its other affiliates would cause a default by Entergy Texas.

m. No Financial Covenants or Rating Agency Triggers Related to Another Entity. A no financial covenants or rating agency triggers related to another entity provision, that the financial covenants in Entergy Texas's credit agreements will not be related to any entity other than Entergy Texas. Entergy Texas will not include in its debt or credit agreements any financial covenants or rating agency triggers related to any entity other than Entergy Texas.

119. The agreed ring-fencing measures are appropriate.

Agreement – Cost Allocation and Rate Design

120. The signatories agreed on the class revenue allocation and rate design reflected in attachment G to the agreement with the following rate classes: residential, small general service, general service, large general service, large industrial power, and lighting.

121. The signatories agreed on a $14.00 customer charge applicable to the residential class and a $21.94 customer charge applicable to the small general class.

122. The signatories agreed on the following energy line-loss factors and did not reach an agreement on Entergy Texas's demand line-loss factors:

Voltage Class	Energy Factor
Bulk	1.004137
Local	1.016396
Primary	1.047994
Secondary	1.076798

123. The allocation of the revenue requirement as set forth in attachment G to the agreement is just and reasonable.

124. The agreed energy line-loss factors are reasonable.

125. The agreed rate schedules and tariffs attached as attachment A to Entergy Texas's agreed motion for interim rates are reasonable.

Agreement – Advanced Metering System

126. Entergy Texas requested to reconcile advanced metering system (AMS) costs with AMS surcharge revenues in accordance with 16 TAC § 25.130(k)(6) and the Commission's order in Docket No. 47416.[5]

127. When the Commission approved Entergy Texas's AMS deployment plan in Docket No. 47416, the Commission approved Entergy Texas's request for a waiver from the requirement under 16 TAC § 25.130(k)(4) that the Commission move the cost of installed AMS equipment out of the AMS surcharge and into base rates in a base-rate proceeding during AMS deployment. Consistent with that waiver, Entergy Texas does not propose to adjust its AMS surcharge as part of this reconciliation proceeding.

128. Entergy Texas incurred AMS costs and investments for the deployment of AMS during the reconciliation period ending December 31, 2021 in accordance with Entergy Texas's AMS deployment plan approved in Docket No. 47416.

129. In Docket No. 47416, Entergy Texas agreed to establish one or more reasonable regulatory asset or liability accounts in which it would record at least annually the difference between the AMS surcharge revenues and the net revenue requirements for the period, based on actual expenses and net investment in AMS.

130. The costs associated with AMS deployment are recorded with unique accounting codes using the appropriate Federal Energy Regulatory Commission accounts, sub-accounts, and property unit numbers to ensure they are not also included in Entergy Texas's base rates.

131. Entergy Texas has tracked and recorded its AMS revenues and related costs and savings consistent with the Commission's order in Docket No. 47416.

132. Entergy Texas forecasted negative $13.9 million in customer service benefits based on the estimated levels of meter deployment, reflecting operations and maintenance expenses eliminated as a result of AMS.

[5] *Application of Entergy Texas, Inc. for Approval of Advanced Metering System (AMS) Deployment Plan, AMS Surcharge, and Non-Standard Metering Service Fees*, Docket No. 47416, Order (Dec. 14, 2017).

133. Entergy Texas realized customer service benefits through December 31, 2021 of negative $2.0 million in savings.

134. As of December 31, 2021, Entergy Texas's AMS regulatory asset represents an over-recovery of $9.9 million. This front-loaded revenue during the deployment period will reverse after deployment is concluded.

135. Entergy Texas demonstrated that its AMS costs and surcharge revenues were appropriately accounted for during the reconciliation period and that any differences between its estimated costs or investments and its actual expenditures were appropriately incurred and were reasonable and necessary.

136. The costs recovered through Entergy Texas's AMS surcharge were spent, properly allocated, reasonable, and necessary.

Agreement – Nuclear Decommissioning

137. Entergy Texas is responsible through a power purchase agreement with Entergy Louisiana, L.L.C. for a portion of the cost to decommission River Bend nuclear power plant.

138. Entergy Texas estimates the decommissioning of River Bend will begin in 2045 when River Bend's operating license expires.

139. Entergy Texas proposed that no additional contribution to the decommissioning fund through base revenue is necessary based on a review of current information regarding the cost of decommissioning, anticipated escalation rates, the anticipated return on the funds in the decommissioning trust, and other relevant factors.

140. A revenue requirement of $0.00 for Entergy Texas's nuclear decommissioning expense is reasonable.

Agreement – Depreciation Rates

141. The signatories agreed that for the period that rates from this proceeding are in effect, Entergy Texas's depreciation rates will be those reflected in attachment B to the agreement.

142. The signatories agreed that the agreed depreciation rates do not reflect any agreement on the useful lives of the utility assets, any planned retirement of utility assets, or the ultimate

recovery of any undepreciated asset costs that may be considered in Entergy Texas's next general base-rate proceeding.

143. The agreement's treatment of depreciation rates is reasonable.

Agreement – Regulatory Assets

144. The signatories agreed on the amortizations and accruals reflected in attachment E to the agreement for Entergy Texas's pension and other post-retirement benefits tracker regulatory assets, the self-insurance (storm) reserve accrual, the COVID bad debt regulatory asset, and the non-advanced metering system amortization adjustment.

145. The signatories agreed that amortization rates for other assets not specifically addressed in the agreement will be the same as in current rates.

146. The treatment of the amortizations and accruals for pension and other post-retirement benefits tracker regulatory assets, self-insurance (storm) reserve accrual, COVID-19 bad debt regulatory asset, and non-advanced metering system regulatory asset in the agreement is reasonable.

Agreement – Self-Insurance Reserve

147. Entergy Texas presented a cost-benefit analysis performed by a qualified independent insurance consultant with analysis of the appropriate limits of self-insurance, analysis of the appropriate annual accruals to build a reserve account for self-insurance, and the target reserve level.

148. In the application, Entergy Texas requested approval of a self-insurance reserve funded by an annual accrual of $14,555,000, consisting of $6,315,000 to account for annual expected losses from storm damage, plus $8,240,000 to build a target reserve of $15,244,000.

149. The signatories agreed that the self-insurance reserve will be funded by an annual accrual of $3,543,382, as set forth in attachment E to the parties' agreement.

150. Entergy Texas demonstrated that self-insurance is a lower-cost alternative than commercial insurance and that customers will receive the benefits of the self-insurance plan.

151. An annual accrual recovery amount of $3,543,382 for Entergy Texas's self-insurance reserve is appropriate.

Informal Disposition

152. More than 15 days have passed since completion of the notice provided in this docket.

153. The following are all the parties to this proceeding: Commission Staff, Entergy Texas, OPUC, TIEC, Sierra Club, Kroger, Federal Executive Agencies, Walmart, Cities, AACE, ChargePoint, SPS, El Paso Electric, Sempra Infrastructure Partners, and FlashParking.

154. All the parties to this proceeding are signatories to the agreement or are unopposed to the agreement.

155. No hearing is necessary.

156. This decision is not adverse to any party.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. Entergy Texas is a public utility as that term is defined in PURA[6] § 11.004(1) and an electric utility as that term is defined in PURA § 31.002(6).

2. The Commission exercises regulatory authority over Entergy Texas and the subject matter of this application under PURA §§ 14.001, 32.001, 36.001 through 36.112, 36.211, and 39.452(k).

3. Under PURA § 33.051, each municipality in Entergy Texas's service area that has not ceded jurisdiction to the Commission has jurisdiction over Entergy Texas's application, which seeks to change rates for service within each municipality.

4. The Commission has authority over an appeal from municipalities' rate proceedings under PURA § 33.051.

5. SOAH exercised jurisdiction over this proceeding under PURA § 14.053 and Texas Government Code § 2003.049.

[6] Public Utility Regulatory Act, Tex. Util. Code §§ 11.001–66.016.

6. This docket was processed in accordance with the requirements of PURA, the Texas Administrative Procedure Act,[7] and Commission rules.

7. Entergy Texas provided adequate notice of its application in compliance with PURA § 36.103 and 16 TAC § 22.51(a) and filed affidavits attesting to the completion of notice in compliance with 16 TAC § 22.51(d).

8. Entergy Texas timely appealed to the Commission the actions of the municipalities described in this Order in accordance with PURA § 33.053(b).

9. Notice of the hearing on the merits was given in compliance with Texas Government Code §§ 2001.051 and 2001.052.

10. Entergy Texas's application included supporting workpapers and information required by the Commission's rate filing package in compliance with 16 TAC § 22.243(b), except that Entergy Texas did not comply with certain requirements in the rate filing package related to fuel factors, energy-efficiency plans, confidentiality, and an independent audit as described in finding of fact 77.

11. Good cause exists under 16 TAC § 25.3 to grant an exception to the requirement in 16 TAC § 22.243(b) that Entergy Texas comply with certain requirements in the Commission's rate filing package as described in finding of fact 77.

12. Entergy Texas's application complied with PURA § 36.112(b)(2) and 16 TAC § 25.246(b)(2) and (3).

13. The rates approved by this Order are just and reasonable under PURA § 36.003(a).

14. The rates approved by this Order are not unreasonably preferential, prejudicial, or discriminatory and are sufficient, equitable, and consistent in application to each customer class under PURA § 36.003(b) and 16 TAC § 25.234(a).

15. In accordance with PURA § 36.051, the revenue produced by the rates approved by this Order permit Entergy Texas a reasonable opportunity to earn a reasonable return on its

[7] Tex. Gov't Code §§ 2001.001–.903.

invested capital used and useful in providing service to the public in excess of its reasonable and necessary operating expenses.

16. The rates approved by this Order comply with PURA § 36.053 with regard to invested capital.

17. The depreciation rates set forth in attachment B to the agreement comply with the requirements of PURA § 36.056 and 16 TAC § 25.231(b)(1)(B).

18. Entergy Texas's invested capital through the end of the test year and the update period meets the requirements of PURA § 36.053.

19. The affiliate costs and expenses included in the rates approved by this Order comply with the requirements of PURA § 36.058.

20. The rates approved by this Order include only expenses that are reasonable and necessary to provide service to the public under 16 TAC § 25.231(b).

21. The rates approved by this Order do not include any expenses prohibited from recovery under PURA §§ 36.061(a) and 36.062 and 16 TAC § 25.231(b)(2).

22. The expense for pension and other post-employment benefits that is included in the rates approved by this Order complies with PURA § 36.065 and 16 TAC § 25.231(b)(1)(H).

23. The adjustments to Entergy Texas's test-year data are known and measurable under 16 TAC § 25.231(a) and (c)(2)(F) and 16 TAC § 25.246(b)(5).

24. Entergy Texas's rate-case expenses incurred in this docket through December 31, 2022 and in Docket No. 49916 in the amount of $4,805,630.19 comply with the requirements of PURA § 36.061 and 16 TAC § 25.245.

25. Under PURA § 33.023(b), Entergy Texas is required to reimburse Cities for its reasonable rate-case expenses incurred in this proceeding.

26. The rates approved by this Order are effective for consumption on and after December 3, 2022 under PURA § 36.211(b) and 16 TAC § 25.246(d)(1).

27. Because the rates approved by this Order are identical to the interim rates, no true-up of the interim rates is necessary.

28. The agreed cash working capital was determined by a lead-lag study and is reasonable in accordance with 16 TAC § 25.231(c)(2)(B)(iii)(IV).

29. The Commission has authority under PURA §§ 11.002, 14.001, 14.003, 14.154(a), 14.201, and 36.003(a) to order Entergy Texas to adopt the financial protections approved in this Order.

30. Entergy Texas demonstrated under PURA § 36.064 that (1) its proposed self-insurance reserve coverage is in the public interest; (2) the plan, considering all costs, would be a lower cost alternative to purchasing commercial insurance; and (3) customers would receive the benefits of the savings.

31. Entergy Texas established under 16 TAC § 25.231(b)(1)(G) that its self-insurance plan is in the public interest by presenting a cost benefit analysis demonstrating that self-insurance is a lower-cost alternative than commercial insurance, demonstrating that ratepayers will receive the benefits of the self-insurance plan, and analyzing the appropriate annual accruals to build a reserve account for self-insurance.

32. The Commission previously waived the requirement under 16 TAC § 25.130(k)(4) that the cost of installed AMS equipment be moved out of the AMS surcharge and into base rates in this proceeding.

33. Because the Commission did not find that any AMS costs were not spent, were not properly allocated, or were not reasonable and necessary, no refund of the AMS surcharge revenue to Entergy Texas's customers is required in this reconciliation proceeding under 16 TAC § 25.130(k)(6).

III. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders.

1. The Commission approves the rates, terms, and conditions of the agreement to the extent provided in this Order.

2. The Commission approves the tariffs attached as attachment A to the agreed motion for interim rates, including the rates in those tariffs, to the extent provided in this Order.

3. In all Commission proceedings or filings requiring application of such items, Entergy Texas must use an overall authorized rate of return (or weighted average cost of capital) of 6.61% that is based on a cost of debt of 3.47%, a return on equity of 9.57%, and a capital structure of 51.21% equity, 0.81% preferred stock, and 47.97% long-term debt.

4. The Commission approves the baselines established for transmission cost recovery factor, distribution cost recovery factor, purchased capacity recovery factor, and generation cost recovery riders as set forth in attachment D to the agreement.

5. The Commission approves the amortizations and accruals reflected in attachment E to the agreement.

6. The Commission approves the new riders related to market valued demand response, a green future option, and deferred tax accounting as proposed by Entergy Texas.

7. Within 60 days of this Order, Entergy Texas must file schedules in a separate docket showing its calculation of the relate back of rates to December 3, 2022. No later than ten days after the date of the tariff filing, any intervenor in this proceeding may file comments on the individual tariff sheets. No later than 15 days after the date of the tariff filing, Commission Staff must file its comments recommending approval, modification, or rejection of the individual sheets. Responses to Commission Staff's recommendation must be filed no later than 20 days after the filing of the surcharge tariffs. The presiding officer must approve, modify, or reject each tariff sheet. If any surcharge tariffs are modified or rejected, Entergy Texas must file proposed revisions to the individual sheets in accordance with the presiding officer's order within ten days of the date of that order, and the review procedure set out above will apply to the revised sheets.

8. The Commission approves rate-case expenses in the amount of $4,805,630.19 to be recovered over a period of 36 months under schedule RCE-5.

9. Within 60 days of this Order, Entergy Texas must file schedules in a separate docket showing its calculation of rates designed to collect the rate-case expenses approved in this Order. No later than ten days after the date of the tariff filing, any intervenor in this proceeding may file comments on the individual tariff sheets. No later than 15 days after the date of the tariff filing, Commission Staff must file its comments recommending

approval, modification, or rejection of the individual sheets. Responses to Commission Staff's recommendation must be filed no later than 20 days after the filing of the surcharge tariffs. The presiding officer must approve, modify, or reject each tariff sheet. If any surcharge tariffs are modified or rejected, Entergy Texas must file proposed revisions to the individual sheets in accordance with the presiding officer's order within ten days of the date of that order, and the review procedure set out above will apply to the revised sheets.

10. Entergy Texas must reimburse Cities for its reasonable rate-case expenses.

11. In a future proceeding, Entergy Texas may seek the recovery of additional rate-case expenses incurred in this docket by Entergy Texas after December 31, 2022 or by Cities.

12. Entergy Texas must comply with the following ring-fencing conditions:

    a. Entergy Texas Credit Ratings. Entergy Texas must work to ensure that its credit ratings at S&P and Moody's remain at or above Entergy Texas's current credit ratings.

    b. Notification of Less-than-Investment-Grade Rating. Entergy Texas must notify the Commission if its credit issuer rating or corporate rating as rated by either S&P or Moody's falls below investment-grade level.

    c. Stand-Alone Credit Rating. Entergy Texas must take the actions necessary to ensure the existence of an Entergy Texas stand-alone credit rating.

    d. No Sharing of a Credit Facility. Entergy Texas must not share a credit facility with any unregulated affiliates.

    e. No Entergy Texas Debt Secured by Non-Entergy Texas Assets. Entergy Texas's debt must not be secured by non-Entergy Texas assets.

    f. No Entergy Texas Assets Pledged for Other Entities' Debt. Entergy Texas's assets must not secure the debt of Entergy Corporation or its non-Entergy Texas affiliates. Entergy Texas's assets must not be pledged for any other entity.

    g. No Credit for Affiliate Debt. Entergy Texas must not hold out its credit as being available to pay the debt of any Entergy affiliates.

h. No Commingling of Assets. Except for access to the utility-money pool and the use of shared assets governed by the Commission's affiliate rules, Entergy Texas must not commingle its assets with those of other Entergy affiliates.

i. Affiliate Asset Transfer Commitment. Entergy Texas must not transfer any material assets or facilities to any affiliates, other than a transfer that is on an arm's-length basis in accordance with the Commission's affiliate standards applicable to Entergy Texas, regardless of whether such affiliate standards would apply to the particular transaction.

j. No Debt Disproportionately Dependent on Entergy Texas. Without previous approval of the Commission, neither Entergy Corporation nor any affiliate of Entergy Corporation (excluding Entergy Texas) may incur, guaranty, or pledge assets in respect of any incremental new debt that is dependent on (1) the revenues of Entergy Texas in more than a proportionate degree than the other revenues of Entergy Corporation or (2) the stock of Entergy Texas.

k. No Bankruptcy Cost Commitment. Entergy Texas must not seek to recover from customers any costs incurred as a result of a bankruptcy of Entergy Corporation or any of its affiliates.

l. No Cross-Default Provision. A no cross-default provision, that Entergy Texas's credit agreements and indentures must not contain cross-default provisions whereby a default by Entergy Corporation or its other affiliates would cause a default by Entergy Texas.

m. No Financial Covenants or Rating Agency Triggers Related to Another Entity. A no financial covenants or rating agency triggers related to another entity provision, that the financial covenants in Entergy Texas's credit agreements must not be related to any entity other than Entergy Texas. Entergy Texas must not include in its debt or credit agreements any financial covenants or rating agency triggers related to any entity other than Entergy Texas.

13. The Commission grants a good-cause exception to the requirements in 16 TAC § 22.243(b) related to certain rate filing package instructions for fuel factors, energy-efficiency plans, confidentiality, and independent audits to the extent provided in this Order.

14. The Commission approves the following energy line-loss factors:

Voltage Class	Energy Factor
Bulk	1.004137
Local	1.016396
Primary	1.047994
Secondary	1.076798

15. The Commission approves the depreciation rates for the asset categories set forth in attachment B of the agreement.

16. The Commission adjusts Entergy Texas's AMS surcharge to reflect the Commission-authorized changes to return on equity, cost of debt, and capital structure used to calculate Entergy Texas's base rates in this Order.

17. Within 20 days of the date this Order is filed, Entergy Texas must provide the Commission with a clean copy of the tariffs approved by this Order to be stamped *Approved* and retained by Central Records.

18. Entry of this Order does not indicate the Commission's endorsement or approval of any principle or methodology that may underlie the agreement and must not be regarded as precedential as to the appropriateness of any principle or methodology underlying the agreement.

19. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted.

Signed at Austin, Texas the 24th day of August 2023.

PUBLIC UTILITY COMMISSION OF TEXAS

Kathleen Jackson
KATHLEEN JACKSON, INTERIM CHAIR

Will McAdams
WILL MCADAMS, COMMISSIONER

Lori Cobos
LORI COBOS, COMMISSIONER

JIMMY GLOTFELTY, COMMISSIONER

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WUTC DOCKET: UE-230172 & UE-210852
EXHIBIT: AEB-1Tr
ADMIT ☑ W/D ☐ REJECT ☐

Exh. AEB-1Tr
Docket UE-23~~____~~0172
Witness: Ann E. Bulkley

BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION, Complainant, v. PACIFICORP dba PACIFIC POWER & LIGHT COMPANY Respondent.	Docket UE-23~~____~~0172

PACIFICORP

DIRECT TESTIMONY OF ANN E. BULKLEY

~~**March 2023**~~**REVISED April 4, 2023** returns of other businesses having similar risk, adequacy of the return to provide access to capital and support credit quality, and the requirement that the result lead to just and reasonable rates.[2]

- The effect of current and projected capital market conditions on investors' return requirements.

- The results of several analytical approaches that provide estimates of the Company's cost of equity. Because the Company's authorized ROE should be a forward-looking estimate over the period during which the rates will be in effect, these analyses rely on forward-looking inputs and assumptions (*e.g.*, projected analyst growth rates in the DCF model, forecasted risk-free rate and market risk premium in the CAPM analysis).

- Although the companies in my proxy group are generally comparable to PacifiCorp, each company is unique, and no two companies have the exact same business and financial risk profiles. Accordingly, I considered the Company's regulatory, business, and financial risks relative to the proxy group of comparable companies in determining where the Company's ROE should fall within the reasonable range of analytical results to appropriately account for any residual differences in risk.

Q. What are the results of the models that you have used to estimate the cost of equity for PacifiCorp?

A. Figure 1 summarizes the range of results produced by the Constant Growth DCF, CAPM, ECAPM, Risk Premium, and Expected Earnings analyses based on data through the end of January 2023.

[2] Federal Power Commission v. Hope Natural Gas Co., 320 U.S. 591 (1944) (Hope) https://supreme.justia.com/cases/federal/us/320/591/; Bluefield Waterworks & Improvement Co. v. Public Service Commission of West Virginia, 262 U.S. 679 (1923) (Bluefield) https://tile.loc.gov/storage-services/service/ll/usrep/usrep262/https://supreme.justia.com/cases/federal/us/320/591/usrep262679/usrep262679.pdf.

excluding the volatile food and energy categories, core PCE prices rose 4.4 percent. The inflation data received over the past three months show a welcome reduction in the monthly pace of increases. And while recent developments are encouraging, we will need substantially more evidence to be confident that inflation is on a sustained downward path.

. . . . .

With today's action, we have raised interest rates by 4-1/2 percentage points over the past year. We continue to anticipate that ongoing increases in the target range for the federal funds rate will be appropriate in order to attain a stance of monetary policy that is sufficiently restrictive to return inflation to 2 percent over time.

. . . . .

At the December meeting, we all wrote down our best estimates of what we thought the ultimate level would be [of the federal funds rate], and that's obviously back in December. And the median for that was between five and five and a quarter percent. At the March meeting, we're going to update those assessments. We did not update them today. We did, however, continue to say that we believe ongoing rate hikes will be appropriate to attain a sufficiently restrictive stance of policy to bring inflation back down to 2 percent. We think we've covered a lot of ground, and financial conditions have certainly tightened. I would say we still think there's work to do there. We haven't made a decision on exactly where that will be. I think, you know, we're going to be looking carefully at the incoming data between now and the March meeting and then the May meeting. I don't feel a lot of certainty about where that will be. It could certainly be higher than we're writing down right now. If we come to the view that we need to write down to -- you know, to move rates up beyond what we said in December we would certainly do that. At the same time, if the data come in, in the other direction then we'll -- you know, we'll make data-dependent decisions at coming meetings, of course.[6]

[6] Transcript. Chair Powell Press Conference, Feb. 1, 2023; clarification added. https://www.federalreserve.gov/mediacenter/files/FOMCpresconf20230201.pdf

B. The Use of Monetary Policy to Address Inflation

Q. What policy actions has the Federal Reserve enacted to respond to increased inflation?

A. The dramatic increase in inflation has prompted the Federal Reserve to pursue an aggressive normalization of monetary policy, removing the accommodative policy programs used to mitigate the economic effects of COVID-19. As of the FOMC meeting on February 1, 2023, the Federal Reserve has taken the following actions:

- Completed its taper of Treasury bond and mortgage-backed securities purchases;[7]
- Increased the target federal funds rate beginning in March 2022 through a series of increases from a target range of 0.00 to 0.25 percent to a target range of 4.50 percent to 4.75 percent;[8]
- Anticipates ongoing increases in the target range will be appropriate to achieve its goals of maximum employment at the inflation rate of 2.00 percent over the long-run;[9]
- Began reducing its holdings of Treasury and mortgage-backed securities on June 1, 2022.[10] The Federal Reserve is reducing the size of its balance sheet by only reinvesting principal payments on owned securities after the total amount of payments received exceeds a defined cap. For Treasury securities, the cap is currently set at $60 billion per month. The cap for mortgage-backed securities is currently set at $35 billion per month.[11]

[7] Federal Reserve Bank of New York, https://www.newyorkfed.org/markets/domestic-market-operations/monetary-policy-implementation/treasury-securities/treasury-securities-operational-details#monthly-details.
[8] Press Releases, Federal Reserve (Mar. 16, 2022) https://www.federalreserve.gov/mediacenter/files/FOMCpresconf20220316.pdf; Transcript, Chair Powell Press Conference, Feb. 1, 2023, https://www.federalreserve.gov/mediacenter/files/FOMCpresconf20230201.pdf.
[9] Transcript, Chair Powell Press Conference, Feb. 1, 2023.
[10] Press Release, Federal Reserve (May 4, 2022) https://www.federalreserve.gov/newsevents/pressreleases/monetary20220504a.htm.
[11] Press Release, Federal Reserve, Plans for Reducing the Size of the Federal Reserve's Balance Sheet (May 4, 2022) https://www.federalreserve.gov/newsevents/pressreleases/monetary20220504b.htm.

Q. Do recent changes in the Gross Domestic Product (GDP) affect the current outlook for inflation and interest rates?

A. No. While FOMC participants have recently reduced their projections for economic activity for real GDP growth to 0.5 percent in 2023,[14] which is well below the median estimate for the longer-run normal GDP growth rate, the Federal Reserve has highlighted that the labor market continues to be extremely tight, and in fact, the unemployment rate reached 3.4 percent in January 2023, the lowest it has been in over 50 years.[15] Therefore, with a tight labor market and persistently high inflation, the Federal Reserve has indicated its need to continue a restrictive monetary policy to moderate demand to better align it with supply.[16]

Q. How have interest rates and inflation changed since the Company's last rate case?

A. As shown in Figure 2 and Figure 3, current market conditions are significantly different than at the time of the Company's last rate proceeding. As summarized in Figure 4, when the Commission authorized an ROE of 9.50 percent in the Company's 2020 rate proceeding, interest rates (as measured by the 30-year Treasury bond yield) were 1.64 percent and inflation was 1.28 percent. However, since the Company's last rate proceeding, long-term interest rates have more than doubled, and, as discussed, inflation is also substantially higher.

[14] FOMC, Summary of Economic Projections, Dec. 14, 2022, https://www.federalreserve.gov/monetarypolicy/files/fomcprojtabl20221214.pdf.
[15] Lucia Mutikani, U.S. reports blowout job growth; unemployment lowest since 1969. Reuters (Feb. 3, 2023) https://www.reuters.com/world/us/us-job-growth-accelerates-january-wage-gains-moderate-2023-02-03/.
[16] Transcript, Chair Powell, Press Conference, Feb. 1, 2023, https://www.federalreserve.gov/mediacenter/files/FOMCpresconf20230201.pdf.

Figure 4: Change in Market Conditions Since PacifiCorp's Last Rate Case[17]

Docket	Decision Date	Federal Funds Rate	30-Day Average Of 30-Year Treasury Bond Yield	Inflation Rate	Authorized ROE
UE 191024	12/14/2020	0.09%	1.64%	1.28%	9.50%
Current	1/31/2023	4.33%	3.70%	6.42%	

D. Expected Performance of Utility Stocks and the Investor-Required Return on Utility Investments

Q. Are utility share prices correlated to changes in the yields on long-term government bonds?

A. Yes. Interest rates and utility share prices are inversely correlated, which means that increases in interest rates result in declines in the share prices of utilities and vice versa. For example, Goldman Sachs and Deutsche Bank examined the sensitivity of share prices of different industries to changes in interest rates over the past five years. Both Goldman Sachs and Deutsche Bank found that utilities had one of the strongest negative relationships with bond yields (*i.e.*, increases in bond yields resulted in the decline of utility share prices).[18]

Q. How do equity analysts expect the utilities sector to perform in an increasing interest rate environment?

A. Equity analysts project that utilities will underperform the broader market given high inflation and the recent increases in interest rates. Fidelity classifies the utility sector

[17] St. Louis Federal Reserve Bank; Bureau of Labor Statistics.
[18] Justina Lee, *Wall Street Is Rethinking the Treasury Threat to Big Tech Stocks*. Bloomberg.com (Mar. 11, 2021) https://www.bloomberg.com/news/articles/2021-03-11/wall-street-is-rethinking-the-treasury-threat-to-big-tech-stocks#xj4v7vzkg.

as underweight,[19] and *Morningstar* recently noted that many of the market conditions that supported the premium valuation of utilities over the last decade mainly low inflation, interest rates and energy prices are currently reversing:

> Utilities' relative outperformance in 2022 while the market frets about the economy suggests that utilities remain a defensive haven. Utilities also outperformed ahead of the 2001 and the 2007-09 recessions. However, we think utilities' weak total returns in 2022 should concern investors. For the first time in a decade, the tailwinds supporting utilities' earnings growth and premium valuations (low inflation, low interest rates, and low energy price) are reversing Utilities' growth prospects are our biggest concern going into 2023. Utilities no longer offer a yield premium as bond yields climbed to their highest level in 15 years. Without that yield premium, the only advantage utilities offer investors is earnings growth. This is why high inflation and rising interest rates loom large for utilities in 2023. Inflation, including higher energy prices, will raise customer bills and could force utilities to re-evaluate their growth plans. Higher interest costs will sap cash flow and make infrastructure investments more expensive.[20]

Additionally, the *Wall Street Journal* noted that the S&P Utilities Index was down 14 percent over between September and October 2022, attributing the decline to the recent increase in long-term treasury yields:

> A big draw of utility stocks has become less attractive as interest rates have climbed. Utility stocks are known for their sizable dividends, offering investors a regular stream of income. Companies in the S&P 500 utilities sector offer a dividend yield of 3.3 percent, among the highest payout percentages in the index, according to FactSet.
>
> But the outsize dividends of utility stocks are no match for climbing bond yields. The yield on the benchmark 10-year Treasury note finished above 4 percent on Monday for a second consecutive session. Friday marked the 10-year yield's first close above the 4 percent level since 2008 and 11 straight weeks of gains. Treasurys are viewed as essentially risk-free if held to maturity.

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[19] Fidelity, First Quarter 2023 Investment Research Update. (Feb. 8, 2023) https://www.fidelity.com/bin-public/060_www_fidelity_com/documents/learning-center/Investment-Research-Update-Q1-2023.pdf.
[20] Miller, Travis. "Can Utilities Maintain Growth Against Macroeconomic Headwinds?" *Morningstar*, January 3, 2023, https://www.morningstar.com/articles/1131198/can-utilities-maintain-growth-against-macroeconomic-headwinds.

> "The 10-year is repricing everything. I've got something that's even safer and yields even more," said Kevin Barry, chief investment officer at Summit Financial, comparing Treasurys and utility stocks.[21]

Similarly, Barron's noted that the decline in share prices can be attributed to the relatively high valuations and low dividend yields of utilities as compared to other asset classes such as Treasuries.[22] According to Barron's, even after the recent decline in share prices, the Utilities Select ETF was yielding 2.85 percent, which is a yield that will not "lure in buyers when the ultrasafe 10-year Treasury note yields close to 4%."[23] Therefore, Barron's currently recommends not buying utility stocks.

Q. Why do equity analysts expect the electric utility sector to underperform over the near-term?

A. While interest rates have increased substantially over the past year, the valuations of utilities have remained elevated and have not fully reflected the effect of the recent increase in interest rates. To illustrate this point, I examined the difference between the dividend yields of utility stocks and the yields on long-term government bonds from January 2010 through January 2023 (yield spread). I selected the dividend yield on the S&P Utilities Index as the measure of the dividend yields for the utility sector and the yield on the 10-year Treasury bond as the estimate of the yield on long-term government bonds. As shown in Figure 5, the recent significant increase in long-term government bonds yields has resulted in the yield on long-term government bonds exceeding the dividend yields of utilities. The yield spread as of January 31, 2023

[21] Hannah Miao, *Utility Stock stumble as treasury yields climb.* The Wall Street Journal (Oct. 18, 2022) https://www.wsj.com/articles/utility-stocks-stumble-as-treasury-yields-climb-11666058844.
[22] Jacob Sonenshine, Utilities Stocks Have Fallen off a Cliff. They Just Got Downgraded, Too. Barron's (Oct. 17, 2022) https://www.barrons.com/articles/utility-stocks-dividend-yields-51666038990.
[23] *Id.*

increasing interest rates has resulted in the DCF model understating the utility cost of equity, and that weight should be placed on risk premium models, such as the CAPM, in the determination of the ROE:

> To help control rising inflation, the Federal Open Market Committee has signaled that it is ending its policies designed to maintain low interest rates. Aqua Exc. at 9. Because the DCF model does not directly account for interest rates, consequently, it is slow to respond to interest rate changes. However, I&E's CAPM model uses forecasted yields on ten-year Treasury bonds, and accordingly, its methodology captures forward looking changes in interest rates.
>
> Therefore, our methodology for determining Aqua's ROE shall utilize both I&E's DCF and CAPM methodologies. As noted above, the Commission recognizes the importance of informed judgment and information provided by other ROE models. In the 2012 PPL Order, the Commission considered PPL's CAPM and RP methods, tempered by informed judgment, instead of DCF-only results. We conclude that methodologies other than the DCF can be used as a check upon the reasonableness of the DCF derived ROE calculation. Historically, we have relied primarily upon the DCF methodology in arriving at ROE determinations and have utilized the results of the CAPM as a check upon the reasonableness of the DCF derived equity return. As such, where evidence based on other methods suggests that the DCF-only results may understate the utility's ROE, we will consider those other methods, to some degree, in determining the appropriate range of reasonableness for our equity return determination. In light of the above, we shall determine an appropriate ROE for Aqua using informed judgement based on I&E's DCF and CAPM methodologies.[25]
>
> . . . . .
>
> We have previously determined, above, that we shall utilize I&E's DCF and CAPM methodologies. I&E's DCF and CAPM produce a range of reasonableness for the ROE in this proceeding from 8.90% [DCF] to 9.89% [CAPM]. Based upon our informed judgment, which includes consideration of a variety of factors, including increasing inflation leading to increases in interest rates and capital costs since the rate filing, we determine that a base ROE of 9.75% is reasonable and appropriate for Aqua.[26]

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[25] *Penn. Pub. Util. Comm'n et.al. v. Aqua Penn. Wastewater Inc.*, Pennsylvania Public Utility Commission, Docket Nos. R-2021-3027385 and R-2021-3027386, Opinion and Order, at 154–155 (May 12, 2022) https://www.puc.pa.gov/pcdocs/1744354.pdf.
[26] *Id.*, at 177–178.

group of companies that is both publicly traded and comparable to PacifiCorp in certain fundamental business and financial respects to serve as its "proxy" in the ROE estimation process.

Even if PacifiCorp was a publicly traded entity, it is possible that transitory events could bias its market value over a given period. A significant benefit of using a proxy group is that it moderates the effects of unusual events that may be associated with any one company. The proxy companies used in my analyses all possess a set of operating and risk characteristics that are substantially comparable to PacifiCorp, and thus provide a reasonable basis to derive an estimate of the appropriate ROE for PacifiCorp.

Q. Please provide a brief profile of PacifiCorp.

A. PacifiCorp is an indirect, wholly owned subsidiary of Berkshire Hathaway Energy Company (BHE). PacifiCorp provides electric utility service to approximately 2.0 million residential, commercial and industrial customers in California, Idaho, Oregon, Utah, Washington and Wyoming.[27] In Washington, PacifiCorp provides electric service to approximately 140,000 residential, commercial, and industrial customers.[28] As of December 31, 2021, PacifiCorp's net utility electric plant in Washington was approximately $1.48 billion.[29] In addition, PacifiCorp had 2021 electric operating revenue in Washington of approximately $375 million, made up of 41.30 percent

[27] Berkshire Hathaway Energy Co, 2021 Form 10-K at 3, https://www.sec.gov/ix?doc=/Archives/edgar/data/0001081316/000108131622000004/bhe-20211231.htm.
[28] Direct Testimony of Matthew D. McVee.
[29] PacifiCorp d/b/a Pacific Power and Light Company, 2021 Annual Report to the Washington Utilities and Transportation Commission, at 10 and 219. https://www.utc.wa.gov/sites/default/files/2022-06/140%20-%20PacifiCorp%20-%202021%20-%20AR%20-%20FERC%20Form%201.pdf.

residential, 34.70 percent commercial, 18.48 percent industrial, and 5.51 percent public lighting, sales for resale and other.[30] PacifiCorp's electric operations in Washington represented 8 percent of PacifiCorp's electric sales in 2021.[31] Approximately 78.3 percent of PacifiCorp's 2021 net generation needs in Washington were satisfied by its owned and joint owned facilities while the remaining 21.7 percent was purchased power.[32] PacifiCorp currently has an investment grade long-term rating of A (Outlook: Stable) from S&P and A3 (Outlook: Stable) from Moody's.[33]

Q. How did you select the companies included in your proxy group?

A. I began with the group of companies that Value Line classifies as Electric Utilities and applied the following screening criteria to select companies that:

- pay consistent quarterly cash dividends, because companies that do not cannot be analyzed using the Constant Growth DCF model;
- have investment grade long-term issuer ratings from S&P and/or Moody's;
- are covered by more than one utility industry analysts;
- have positive long-term earnings growth rates from at least two equity analysts;
- own regulated generation assets;
- derive at least 40.00 percent of generation from own generation;
- derive at least 60.00 percent of their total operating income from regulated operating income;
- derive at least 60.00 percent of total regulated operating income from regulated electric operating income; and
- were not parties to a transformative transaction during the analytical periods relied on.

[30] PacifiCorp d/b/a Pacific Power and Light Company, 2021 Annual Report to the Washington Utilities and Transportation Commission, at 2, https://www.utc.wa.gov/sites/default/files/2022-06/02-NEW-PPL-Supp-FERC-Form-1-5-25-22%20%282%29.pdf.
[31] Berkshire Hathaway Energy Company, 2021 Form 10-K, at 3, https://www.sec.gov/ix?doc=/Archives/edgar/data/0001081316/000108131622000004/bhe-20211231.htm.
[32] PacifiCorp d/b/a Pacific Power and Light Company, 2021 Annual Report to the Washington Utilities and Transportation Commission, at 12a, https://www.utc.wa.gov/sites/default/files/2022-06/02-NEW-PPL-Supp-FERC-Form-1-5-25-22%20%282%29.pdf.
[33] S&P Capital IQ Pro and Moody's Investor Services, Feb. 10, 2023.

Q. Did you exclude any other companies from the proxy group?

A. Yes. I also excluded Hawaiian Electric Industries, Inc. (HE) from my proxy group. HE's operations are concentrated on the islands of Hawaii; therefore, the company faces geographic concentration risk. As HE noted in the company's 2021 Form10-K:

> The Company is subject to the risks associated with the geographic concentration of its businesses and current lack of interconnections that could result in service interruptions at the Utilities or higher default rates on loans held by ASB [American Savings Bank].[34]

The increased risk of service interruptions resulting from HE's geographic location which could result in revenue loss and increased costs is a risk unique to HE and would not apply to utilities located on the U.S. mainland. Furthermore, HE's unregulated operations which represent approximately 33 percent of the company's operation income in 2021 are concentrated in the banking sector through the ownership of American Savings Bank (ASB).[35] ASB also only operates on Hawaii; thus, all of the company's consumer and commercial loans are to customers on Hawaii. If Hawaii were to face an adverse economic or political event, ASB could face severe financial effects given the company's geographic concentration in Hawaii.[36] As a result, I have excluded HE from my proxy group considering HE's unique geographical risks.

[34] Hawaii Electric Industries, Inc., 2021 Form 10-K, at 23, https://www.hei.com/investor-relations/reports-and-filings/sec-filings-details/default.aspx?FilingId=14751750.
[35] *Id.*, at 86.
[36] *Id.*, at 20.

Q. What is the composition of your proxy group?

A. The screening criteria just discussed resulted in a proxy group consisting of the 17 companies shown in Figure 6.

Figure 6: Proxy Group

Company	Ticker
ALLETE, Inc.	ALE
Alliant Energy Corporation	LNT
Ameren Corporation	AEE
American Electric Power Company, Inc.	AEP
Avista Corporation	AVA
CMS Energy Corporation	CMS
Duke Energy Corporation	DUK
Entergy Corporation	ETR
Evergy, Inc.	EVRG
IDACORP, Inc.	IDA
NextEra Energy, Inc.	NEE
NorthWestern Corporation	NWE
OGE Energy Corporation	OGE
Otter Tail Corporation	OTTR
Portland General Electric Company	POR
Southern Company	SO
Xcel Energy Inc.	XEL

Q. Do your screening criteria result in a proxy group that is risk-comparable to PacifiCorp?

A. Yes. The overall purpose of developing a set of screening criteria is to select a proxy group of companies that align with the financial and operational characteristics of PacifiCorp and that investors would view as comparable to the Company. I developed the screens and thresholds for each screen based on judgment with the intention of balancing the need to maintain a proxy group that is of sufficient size against establishing a proxy group of companies that are comparable in business and financial risk to the Company. This resulted in the group of seventeen companies shown in Figure 6 that have business and financial risks comparable to PacifiCorp.

credit metrics and, therefore, credit ratings. To that point, S&P explains the importance of regulatory support for large capital projects:

> When applicable, a jurisdiction's willingness to support large capital projects with cash during construction is an important aspect of our analysis. This is especially true when the project represents a major addition to rate base and entails long lead times and technological risks that make it susceptible to construction delays. Broad support for all capital spending is the most credit-sustaining. Support for only specific types of capital spending, such as specific environmental projects or system integrity plans, is less so, but still favorable for creditors. Allowance of a cash return on construction work-in-progress or similar ratemaking methods historically were extraordinary measures for use in unusual circumstances, but when construction costs are rising, cash flow support could be crucial to maintain credit quality through the spending program. Even more favorable are those jurisdictions that present an opportunity for a higher return on capital projects as an incentive to investors.[56]

Therefore, to the extent that PacifiCorp's rates do not permit the opportunity to recover its full cost of doing business, PacifiCorp will face increased recovery risk and thus increased pressure on its credit metrics.

Q. How do PacifiCorp's capital expenditure requirements compare to those of the proxy group companies?

A. As shown in Exhibit No. AEB-12, I calculated the ratio of expected capital expenditures to net utility plant for PacifiCorp and each of the companies in the proxy group by dividing each company's projected capital expenditures for the period from 2023-2027 by its total net utility plant as of December 31, 2022. As shown in Exhibit AEB-12 (*see* also Figure 11 below), PacifiCorp's ratio of capital expenditures as a percentage of net utility plant of 98.86 percent is approximately 1.99 times the

[56] S&P Global Ratings, Assessing U.S. Investor-Owned Utility Regulatory Environments, at 7 (Aug. 10, 2016), https://fileservice.eca.comacloud.net/FileService.Api/file/FileRoom/12143406.

Q. How do credit rating agencies consider regulatory risk in establishing a company's credit rating?

A. Both S&P and Moody's consider the overall regulatory framework in establishing credit ratings. Moody's establishes credit ratings based on four key factors: (1) regulatory framework; (2) the ability to recover costs and earn returns; (3) diversification; and (4) financial strength, liquidity, and key financial metrics. Of these criteria, regulatory framework and the ability to recover costs and earn returns are each given a broad rating factor of 25.00 percent. Therefore, Moody's assigns regulatory risk a 50.00 percent weighting in the overall assessment of business and financial risk for regulated utilities.[57]

S&P also identifies the regulatory framework as an important factor in credit ratings for regulated utilities, stating: "One significant aspect of regulatory risk that influences credit quality is the regulatory environment in the jurisdictions in which a utility operates."[58] S&P identifies four specific factors that it uses to assess the credit implications of the regulatory jurisdictions of investor-owned regulated utilities: (1) regulatory stability; (2) tariff-setting procedures and design; (3) financial stability; and (4) regulatory independence and insulation.[59]

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[57] Moody's Investors Service, Rating Methodology: Regulated Electric and Gas Utilities, June 23, 2017, at 4, https://www.moodys.com/research/doc--PBC_1072530.
[58] Standard & Poor's Global Ratings, Ratings Direct, U.S. and Canadian Regulatory Jurisdictions Support Utilities' Credit Quality—But Some More So Than Others, at 2 (June 25, 2018).
[59] *Id.*, at 1.

Q. How does the regulatory environment in which a utility operates affect its access to and cost of capital?

A. The regulatory environment can significantly affect both the access to, and cost of capital in several ways. First, the proportion and cost of debt capital available to utility companies are influenced by the rating agencies' assessment of the regulatory environment. As noted by Moody's, "[f]or rate regulated utilities, which typically operate as a monopoly, the regulatory environment and how the utility adapts to that environment are the most important credit considerations."[60] Moody's has further highlighted the relevance of a stable and predictable regulatory environment to a utility's credit quality, noting: "[b]roadly speaking, the Regulatory Framework is the foundation for how all the decisions that affect utilities are made (including the setting of rates), as well as the predictability and consistency of decision-making provided by that foundation."[61]

Q. Have you conducted any analysis of the regulatory framework in Washington relative to the jurisdictions in which the companies in your proxy group operate?

A. Yes. I have evaluated the regulatory framework in Washington considering two factors which are important to ensuring PacifiCorp maintains access to capital at reasonable terms. As I will discuss in more detail below, the two factors are: 1) cost recovery mechanisms which allow a utility to recover costs in a timely manner between rate cases and provide the utility the opportunity to earn its authorized

[60] Moody's Investors Service, Rating Methodology: Regulated Electric and Gas Utilities, at 6 (June 23, 2017) https://www.moodys.com/research/doc--PBC_1072530.
[61] *Id.*

authorized ROE of 9.25 percent.[62] In addition, FitchRatings recently downgraded and maintained a negative outlook for APS and its parent, PNW, following the hearings conducted by the Arizona Corporation Commission (ACC) in October 2021 regarding APS' current rate case proceeding.[63] While the ACC had not issued a final order in APS' rate case at the time, FitchRatings noted that the developments at the hearing in October indicate a likely credit negative outcome that will negatively affect the financial metrics of both APS and PNW. It is also important to note that both Standard & Poor's and Moody's downgraded PNW's and APS' credit rating and put the companies on credit watch negative following the Commission's November vote that officially authorized the 8.70 percent ROE.[64]

Q. Are you aware of any utilities whose market data has been affected by adverse rate case developments?

A. Yes, I am. The market has responded negatively to recent returns authorized by the ACC. As noted above, the most recent ROE determination in Arizona was for APS. The Recommended Opinion and Order (ROO) issued in the APS rate proceeding on August 2, 2021, recommended an ROE of 9.16 percent. In October 2021, that recommendation was amended to reduce the company's ROE to 8.70 percent. The

[62] Moody's Investors Service, Credit Opinion: ALLETE, Inc. Update following downgrade, at 3 (Apr. 3, 2019) https://www.moodys.com/research/Moodys-downgrades-Pinnacle-West-to-Baa1-and-Arizona-Public-Service--PR_456814.
[63] FitchRatings, Fitch Downgrades Pinnacle West Capital & Arizona Public Service to 'BBB+'; Outlooks Remain Negative, (Oct. 12, 2021) https://www.fitchratings.com/research/corporate-finance/fitch-downgrades-pinnacle-west-capital-arizona-public-service-to-bbb-outlooks-remain-negative-12-10-2021.
[64] *See* S&P Capital IQ and Moody's Investors Service, "Rating Actions: Moody's downgrades Pinnacle West to Baa1 and Arizona Public Service to A3; outlook negative," (Nov. 17, 2021) https://www.moodys.com/research/Moodys-downgrades-Pinnacle-Rating-Action--PR_456814.

final ROE that was established for APS was 8.70 percent.[65] The market reacted strongly to the proposed order and subsequent amendment and final decision. Guggenheim Securities LLC, an equity analyst that follows PNW, the parent company of APS, informed its clients that

> [T]he "Arizona Corporation Commission is now confirmed to be the single most value destructive regulatory environment in the country as far as investor-owned utilities are concerned".[66]

S&P Global Market Intelligence (Regulatory Research Associates) noted that this decision was "among the lowest ROEs RRA had encountered in its coverage of vertically integrated electric utilities in the past 30 years."[67]

As shown in Figure 13 below, PNW's stock price declined approximately 24 percent from August 2, 2021 to November 4, 2021 following the issuance of the ROO, which recommended an ROE of 9.16 percent, and then the subsequent amendment to that opinion recommending the 8.70 percent ROE ultimately adopted by the ACC. Moreover, the Value Line five-year projected EPS growth rates for this company have fallen from 5.0 percent in July 2021, prior to the deliberations in the rate proceeding to "Nil" in October 2021 and most recently 0.5 percent in January 20, 2023. For PNW, the APS decision has had a significant effect on the share price and growth rate assumptions used in the DCF model.

[65] In the Matter of the Application of Arizona Public Service Company for a Hearing to Determine the Fair Value of the Utility Property of the Company for Ratemaking Purposes, to Fix a Just and Reasonable Rate of Return Thereon, to Approve Rate Schedules Designed to Develop Such Return, Arizona Corporation Commission Docket No. E-01345A-19-0236, Commissioner Olson Proposed Amendment No. 1 to the Recommended Opinion and Order (~~Oct~~Sept. 429, 2021) https://docket.images.azcc.gov/E000015911.pdf?i=1680374997736.
[66] S&P Global Market Intelligence, Pinnacle West shares tumble after regulators slash returns in rate case, (Oct. 7, 2021) https://www.spglobal.com/marketintelligence/en/news-insights/latest-news-headlines/pinnacle-west-shares-tumble-after-regulators-slash-returns-in-rate-case-66991920.
[67] S&P Global Market Intelligence, RRA Regulatory Focus, Commission accords Arizona Public Service Company a well below average ROE, (Oct. 8, 2021).

reasons, I conclude that without the modifications sought by PacifiCorp to its mechanisms, the Company's business risks are somewhat higher than the proxy group which should be reflected in the authorized ROE.

C. Generation Ownership / Washington Clean Energy Transformation Act

Q. How does the business risk of vertically integrated electric utilities compare to the business risk of other regulated utilities?

A. According to Moody's, generation ownership causes vertically integrated electric utilities to have higher business risk than either electric transmission and distribution companies, or natural gas distribution or transportation companies.[68] As a result of this higher business risk, integrated electric utilities typically require a higher ROE or percentage of equity in the capital structure than other electric or gas utilities.

Q. Are there other risk factors specific to vertically integrated electric utilities that the credit rating agencies consider when determining the credit rating of a company that owns generation?

A. Yes. As discussed above, Moody's establishes credit ratings based on four key factors: (1) regulatory framework; (2) the ability to recover costs and earn returns; (3) diversification; and (4) financial strength, liquidity and key financial metrics. The third factor diversification, which Moody's assigns a 10.00 percent weighting in the overall assessments of a company's business risk, considers the fuel source diversity of a utility with generation. Moody's notes:

> For utilities with electric generation, fuel source diversity can mitigate the impact (to the utility and to its rate-payers) of changes in commodity prices, hydrology and water flow, and environmental or

[68] Moody's Investors Service, *Rating Methodology: Regulated Electric and Gas Utilities*, at 21-22 (June 23, 2017) https://ratings.moodys.com/api/rmc-documents/68547.

adjusted sales revenues to customers of two percent more than the previous year without demonstrating to the Commission that they have maximized investment in renewable resources and non-emitting resources prior to using alternative compliance measures.[70] Failure to meet these requirements and investor-owned utilities must pay an administrative penalty in the amount of one hundred dollars, times generation specific multipliers, for every megawatt-hour of electricity generation that does not come from non-emitting electric generation or a renewable resource.[71]

Q. Has the Company developed plans to meet these targets?

A. Yes. The Company has demonstrated its commitment to meeting these public policy goals. Specifically, PacifiCorp filed the Company's first Clean Energy Implementation Plan (CEIP) in January 2022, which outlined the Company's action plan over the four-year period of 2022 to 2025 to meet CETA's clean energy goals. The basis for the Company's CEIP was the 2021 Integrated Resource Plan which outlined its long-term resource plan that includes substantial investment in renewables generation from 2022 through 2040. For example, as discussed in PacifiCorp's update to its 2021 IRP, the Company has planned to add 5,297 MW of new solar generation, 4,160 MW of new wind generation, 5,546 MW of new storage resources and 500 MW of advanced nuclear generation.[72] Moreover, the Company plans to integrate the new renewable generation resources through significant

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[70] Senate Bill 51196, May 7, 2019, at 20, https://lawfilesext.leg.wa.gov/biennium/2019-20/Pdf/Bills/Session%20Laws/Senate/5116-S2.SL.pdf.

[71] ~~Senate Bill 5119, May 7, 2019~~*Id.*, at 23.

[72] PacifiCorp 2021 Integrated Resource Plan Update, March 31, 2022, at 3, https://www.pacificorp.com/content/dam/pcorp/documents/en/pacificorp/energy/integrated-resource-plan/2021-irp/Volume%20I%20-%209.15.2021%20Final.pdf.

investments that strengthen and modernize its transmission network. Finally, PacifiCorp plans to retire 14 of its 22 remaining coal units by 2030 and 19 of the 22 remaining units by 2040 while also retiring 1,554 MW of natural gas generation by 2040.[73] It is important to note that consistent with CETA, while PacifiCorp will still have coal generation assets operating after 2025, PacifiCorp will remove all coal generation assets from Washington's allocation of electricity.[74] Therefore, the Company has outlined significant plans to meet the clean energy goals of CETA.

Q. Have the credit rating agencies commented on PacifiCorp's capital spending plans?

A. Yes. S&P has noted that PacifiCorp's elevated capital spending plan, which includes plans to invest $2.5 billion in 3,900 MW of new and repowered wind and solar generation, will contribute to negative cash flow for the Company over the near-term.[75] Thus, S&P expects the capital spending plan will be partially funded with debt. This highlights the importance of a constructive regulatory outcome in this proceeding to sustain credit quality as the Company implements its CEIP.

Q. How does PacifiCorp's generation investment plan affect its business risk?

A. PacifiCorp's plan includes significant investment in building transmission and adding new renewable generation. This significant investment in transmission and renewable energy will as S&P notes require continued access to capital markets, which highlights the importance of granting PacifiCorp an allowed ROE and equity ratio that is sufficient to attract capital at reasonable terms.

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[73] ~~PacifiCorp 2021 Integrated Resource Plan Update, March 31, 2022~~ *Id.*, at 12-13.
[74] ~~PacifiCorp 2021 Integrated Resource Plan, September 1, 2021, at 290~~ *Id.*
[75] S&P Global Ratings, "PacifiCorp", at 1-2 (April 21, 2022).

interest costs," and that some offset in managing these headwinds include "higher authorized ROEs and the use of tools such as securitization of under-recovered fuel balances."[78]

Likewise, S&P also continues to maintain a negative outlook for the utility industry, noting that downgrades have outpaced upgrades for the third consecutive year in 2022 with a median investor-owned utility credit rating of "BBB+".[79] Further, S&P expects the industry to have negative discretionary cash flow as a result of significant capital spending and consistent dividends.[80] Therefore, the utility industry will need ongoing access to capital markets to fund the capital expenditures. However, S&P notes that inflation, rising interests rates and decreasing equity prices may "hamper" consistent access to capital markets and result in additional pressure on cash flows.[81] Moreover, S&P indicates that if inflation risks persist over the near-term and customer bills increase, regulatory credit support could decrease resulting in weaker financial metrics for the industry:

> Over the past decade the industry's financial measures have weakened from a combination of rising capital spending, regulatory lag, and lower authorized return on equity (ROE). The industry's return on capital was about 6% a decade ago and today is closer to 4%. More recently, we have seen instances where not only is the authorized ROE lowered but also the equity ratio is lowered. These results have weakened the industry's financial measures, pressuring credit quality. Under our base case of moderating inflationary risks during 2023, we expect the industry's credit measures to generally remain flat. However, if inflationary risks persist, it may further pressure the

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[78] Fitch Ratings. North American Utilities, Power & Gas Outlook 2023. at 1-2 (Dec. 7, 2022) https://www.fitchratings.com/research/corporate-finance/north-american-utilities-power-gas-outlook-2023-07-12-2022.

[79] S&P Global Ratings. Industry Top Trends, North American Regulated Utilities: The industries outlook remains negative. (Jan. 23, 2023).

[80] *Id.*

[81] *Id.*

Exh. AEB-1Tr
Docket UE-230172
Witness: Ann E. Bulkley

BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION, Complainant, v. PACIFICORP dba PACIFIC POWER & LIGHT COMPANY Respondent.	Docket UE-230172

PACIFICORP

DIRECT TESTIMONY OF ANN E. BULKLEY

REVISED April 4, 2023

- returns of other businesses having similar risk, adequacy of the return to provide access to capital and support credit quality, and the requirement that the result lead to just and reasonable rates.[2]

- The effect of current and projected capital market conditions on investors' return requirements.

- The results of several analytical approaches that provide estimates of the Company's cost of equity. Because the Company's authorized ROE should be a forward-looking estimate over the period during which the rates will be in effect, these analyses rely on forward-looking inputs and assumptions (*e.g.*, projected analyst growth rates in the DCF model, forecasted risk-free rate and market risk premium in the CAPM analysis).

- Although the companies in my proxy group are generally comparable to PacifiCorp, each company is unique, and no two companies have the exact same business and financial risk profiles. Accordingly, I considered the Company's regulatory, business, and financial risks relative to the proxy group of comparable companies in determining where the Company's ROE should fall within the reasonable range of analytical results to appropriately account for any residual differences in risk.

Q. What are the results of the models that you have used to estimate the cost of equity for PacifiCorp?

A. Figure 1 summarizes the range of results produced by the Constant Growth DCF, CAPM, ECAPM, Risk Premium, and Expected Earnings analyses based on data through the end of January 2023.

[2] Federal Power Commission v. Hope Natural Gas Co., 320 U.S. 591 (1944) (Hope) https://supreme.justia.com/cases/federal/us/320/591/; Bluefield Waterworks & Improvement Co. v. Public Service Commission of West Virginia, 262 U.S. 679 (1923) (Bluefield) https://tile.loc.gov/storage-services/service/ll/usrep/usrep262/https://supreme.justia.com/cases/federal/us/320/591/usrep262679/usrep262679.pdf.

> excluding the volatile food and energy categories, core PCE prices rose 4.4 percent. The inflation data received over the past three months show a welcome reduction in the monthly pace of increases. And while recent developments are encouraging, we will need substantially more evidence to be confident that inflation is on a sustained downward path.
>
> .....
>
> With today's action, we have raised interest rates by 4-1/2 percentage points over the past year. We continue to anticipate that ongoing increases in the target range for the federal funds rate will be appropriate in order to attain a stance of monetary policy that is sufficiently restrictive to return inflation to 2 percent over time.
>
> .....
>
> At the December meeting, we all wrote down our best estimates of what we thought the ultimate level would be [of the federal funds rate], and that's obviously back in December. And the median for that was between five and five and a quarter percent. At the March meeting, we're going to update those assessments. We did not update them today. We did, however, continue to say that we believe ongoing rate hikes will be appropriate to attain a sufficiently restrictive stance of policy to bring inflation back down to 2 percent. We think we've covered a lot of ground, and financial conditions have certainly tightened. I would say we still think there's work to do there. We haven't made a decision on exactly where that will be. I think, you know, we're going to be looking carefully at the incoming data between now and the March meeting and then the May meeting. I don't feel a lot of certainty about where that will be. It could certainly be higher than we're writing down right now. If we come to the view that we need to write down to -- you know, to move rates up beyond what we said in December we would certainly do that. At the same time, if the data come in, in the other direction then we'll -- you know, we'll make data-dependent decisions at coming meetings, of course.[6]

[6] Transcript. Chair Powell Press Conference, Feb. 1, 2023; clarification added. https://www.federalreserve.gov/mediacenter/files/FOMCpresconf20230201.pdf

B. The Use of Monetary Policy to Address Inflation

Q. What policy actions has the Federal Reserve enacted to respond to increased inflation?

A. The dramatic increase in inflation has prompted the Federal Reserve to pursue an aggressive normalization of monetary policy, removing the accommodative policy programs used to mitigate the economic effects of COVID-19. As of the FOMC meeting on February 1, 2023, the Federal Reserve has taken the following actions:

- Completed its taper of Treasury bond and mortgage-backed securities purchases;[7]
- Increased the target federal funds rate beginning in March 2022 through a series of increases from a target range of 0.00 to 0.25 percent to a target range of 4.50 percent to 4.75 percent;[8]
- Anticipates ongoing increases in the target range will be appropriate to achieve its goals of maximum employment at the inflation rate of 2.00 percent over the long-run;[9]
- Began reducing its holdings of Treasury and mortgage-backed securities on June 1, 2022.[10] The Federal Reserve is reducing the size of its balance sheet by only reinvesting principal payments on owned securities after the total amount of payments received exceeds a defined cap. For Treasury securities, the cap is currently set at $60 billion per month. The cap for mortgage-backed securities is currently set at $35 billion per month.[11]

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[7] Federal Reserve Bank of New York, https://www.newyorkfed.org/markets/domestic-market-operations/monetary-policy-implementation/treasury-securities/treasury-securities-operational-details#monthly-details.

[8] Press Releases, Federal Reserve (Mar. 16, 2022) https://www.federalreserve.gov/mediacenter/files/FOMCpresconf20220316.pdf; Transcript, Chair Powell Press Conference, Feb. 1, 2023, https://www.federalreserve.gov/mediacenter/files/FOMCpresconf20230201.pdf.

[9] Transcript, Chair Powell Press Conference, Feb. 1, 2023.

[10] Press Release, Federal Reserve (May 4, 2022) https://www.federalreserve.gov/newsevents/pressreleases/monetary20220504a.htm.

[11] Press Release, Federal Reserve, Plans for Reducing the Size of the Federal Reserve's Balance Sheet (May 4, 2022) https://www.federalreserve.gov/newsevents/pressreleases/monetary20220504b.htm.

Q. Do recent changes in the Gross Domestic Product (GDP) affect the current outlook for inflation and interest rates?

A. No. While FOMC participants have recently reduced their projections for economic activity for real GDP growth to 0.5 percent in 2023,[14] which is well below the median estimate for the longer-run normal GDP growth rate, the Federal Reserve has highlighted that the labor market continues to be extremely tight, and in fact, the unemployment rate reached 3.4 percent in January 2023, the lowest it has been in over 50 years.[15] Therefore, with a tight labor market and persistently high inflation, the Federal Reserve has indicated its need to continue a restrictive monetary policy to moderate demand to better align it with supply.[16]

Q. How have interest rates and inflation changed since the Company's last rate case?

A. As shown in Figure 2 and Figure 3, current market conditions are significantly different than at the time of the Company's last rate proceeding. As summarized in Figure 4, when the Commission authorized an ROE of 9.50 percent in the Company's 2020 rate proceeding, interest rates (as measured by the 30-year Treasury bond yield) were 1.64 percent and inflation was 1.28 percent. However, since the Company's last rate proceeding, long-term interest rates have more than doubled, and, as discussed, inflation is also substantially higher.

[14] FOMC, Summary of Economic Projections, Dec. 14, 2022, https://www.federalreserve.gov/monetarypolicy/files/fomcprojtabl20221214.pdf.
[15] Lucia Mutikani, U.S. reports blowout job growth; unemployment lowest since 1969. Reuters (Feb. 3, 2023) https://www.reuters.com/world/us/us-job-growth-accelerates-january-wage-gains-moderate-2023-02-03/.
[16] Transcript, Chair Powell, Press Conference, Feb. 1, 2023, https://www.federalreserve.gov/mediacenter/files/FOMCpresconf20230201.pdf.

Figure 4: Change in Market Conditions Since PacifiCorp's Last Rate Case[17]

Docket	Decision Date	Federal Funds Rate	30-Day Average Of 30-Year Treasury Bond Yield	Inflation Rate	Authorized ROE
UE 191024	12/14/2020	0.09%	1.64%	1.28%	9.50%
Current	1/31/2023	4.33%	3.70%	6.42%	

D. Expected Performance of Utility Stocks and the Investor-Required Return on Utility Investments

Q. Are utility share prices correlated to changes in the yields on long-term government bonds?

A. Yes. Interest rates and utility share prices are inversely correlated, which means that increases in interest rates result in declines in the share prices of utilities and vice versa. For example, Goldman Sachs and Deutsche Bank examined the sensitivity of share prices of different industries to changes in interest rates over the past five years. Both Goldman Sachs and Deutsche Bank found that utilities had one of the strongest negative relationships with bond yields (*i.e.*, increases in bond yields resulted in the decline of utility share prices).[18]

Q. How do equity analysts expect the utilities sector to perform in an increasing interest rate environment?

A. Equity analysts project that utilities will underperform the broader market given high inflation and the recent increases in interest rates. Fidelity classifies the utility sector

[17] St. Louis Federal Reserve Bank; Bureau of Labor Statistics.
[18] Justina Lee, *Wall Street Is Rethinking the Treasury Threat to Big Tech Stocks*. Bloomberg.com (Mar. 11, 2021) https://www.bloomberg.com/news/articles/2021-03-11/wall-street-is-rethinking-the-treasury-threat-to-big-tech-stocks#xj4y7vzkg.

as underweight,[19] and *Morningstar* recently noted that many of the market conditions that supported the premium valuation of utilities over the last decade mainly low inflation, interest rates and energy prices are currently reversing:

> Utilities' relative outperformance in 2022 while the market frets about the economy suggests that utilities remain a defensive haven. Utilities also outperformed ahead of the 2001 and the 2007-09 recessions. However, we think utilities' weak total returns in 2022 should concern investors. For the first time in a decade, the tailwinds supporting utilities' earnings growth and premium valuations (low inflation, low interest rates, and low energy price) are reversing Utilities' growth prospects are our biggest concern going into 2023. Utilities no longer offer a yield premium as bond yields climbed to their highest level in 15 years. Without that yield premium, the only advantage utilities offer investors is earnings growth. This is why high inflation and rising interest rates loom large for utilities in 2023. Inflation, including higher energy prices, will raise customer bills and could force utilities to re-evaluate their growth plans. Higher interest costs will sap cash flow and make infrastructure investments more expensive.[20]

Additionally, the *Wall Street Journal* noted that the S&P Utilities Index was down 14 percent over between September and October 2022, attributing the decline to the recent increase in long-term treasury yields:

> A big draw of utility stocks has become less attractive as interest rates have climbed. Utility stocks are known for their sizable dividends, offering investors a regular stream of income. Companies in the S&P 500 utilities sector offer a dividend yield of 3.3 percent, among the highest payout percentages in the index, according to FactSet.
>
> But the outsize dividends of utility stocks are no match for climbing bond yields. The yield on the benchmark 10-year Treasury note finished above 4 percent on Monday for a second consecutive session. Friday marked the 10-year yield's first close above the 4 percent level since 2008 and 11 straight weeks of gains. Treasurys are viewed as essentially risk-free if held to maturity.

[19] Fidelity, First Quarter 2023 Investment Research Update. (Feb. 8, 2023) https://www.fidelity.com/bin-public/060_www_fidelity_com/documents/learning-center/Investment-Research-Update-Q1-2023.pdf.
[20] Miller, Travis. "Can Utilities Maintain Growth Against Macroeconomic Headwinds?" *Morningstar*, January 3, 2023, https://www.morningstar.com/articles/1131198/can-utilities-maintain-growth-against-macroeconomic-headwinds.

> "The 10-year is repricing everything. I've got something that's even safer and yields even more," said Kevin Barry, chief investment officer at Summit Financial, comparing Treasurys and utility stocks.[21]

Similarly, Barron's noted that the decline in share prices can be attributed to the relatively high valuations and low dividend yields of utilities as compared to other asset classes such as Treasuries.[22] According to Barron's, even after the recent decline in share prices, the Utilities Select ETF was yielding 2.85 percent, which is a yield that will not "lure in buyers when the ultrasafe 10-year Treasury note yields close to 4%."[23] Therefore, Barron's currently recommends not buying utility stocks.

Q. Why do equity analysts expect the electric utility sector to underperform over the near-term?

A. While interest rates have increased substantially over the past year, the valuations of utilities have remained elevated and have not fully reflected the effect of the recent increase in interest rates. To illustrate this point, I examined the difference between the dividend yields of utility stocks and the yields on long-term government bonds from January 2010 through January 2023 (yield spread). I selected the dividend yield on the S&P Utilities Index as the measure of the dividend yields for the utility sector and the yield on the 10-year Treasury bond as the estimate of the yield on long-term government bonds. As shown in Figure 5, the recent significant increase in long-term government bonds yields has resulted in the yield on long-term government bonds exceeding the dividend yields of utilities. The yield spread as of January 31, 2023

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[21] Hannah Miao, *Utility Stock stumble as treasury yields climb*. The Wall Street Journal (Oct. 18, 2022) https://www.wsj.com/articles/utility-stocks-stumble-as-treasury-yields-climb-11666058844.
[22] Jacob Sonenshine, Utilities Stocks Have Fallen off a Cliff. They Just Got Downgraded, Too. Barron's (Oct. 17, 2022) https://www.barrons.com/articles/utility-stocks-dividend-yields-51666038990.
[23] *Id.*

increasing interest rates has resulted in the DCF model understating the utility cost of equity, and that weight should be placed on risk premium models, such as the CAPM, in the determination of the ROE:

> To help control rising inflation, the Federal Open Market Committee has signaled that it is ending its policies designed to maintain low interest rates. Aqua Exc. at 9. Because the DCF model does not directly account for interest rates, consequently, it is slow to respond to interest rate changes. However, I&E's CAPM model uses forecasted yields on ten-year Treasury bonds, and accordingly, its methodology captures forward looking changes in interest rates.
>
> Therefore, our methodology for determining Aqua's ROE shall utilize both I&E's DCF and CAPM methodologies. As noted above, the Commission recognizes the importance of informed judgment and information provided by other ROE models. In the 2012 PPL Order, the Commission considered PPL's CAPM and RP methods, tempered by informed judgment, instead of DCF-only results. We conclude that methodologies other than the DCF can be used as a check upon the reasonableness of the DCF derived ROE calculation. Historically, we have relied primarily upon the DCF methodology in arriving at ROE determinations and have utilized the results of the CAPM as a check upon the reasonableness of the DCF derived equity return. As such, where evidence based on other methods suggests that the DCF-only results may understate the utility's ROE, we will consider those other methods, to some degree, in determining the appropriate range of reasonableness for our equity return determination. In light of the above, we shall determine an appropriate ROE for Aqua using informed judgement based on I&E's DCF and CAPM methodologies.[25]
>
> . . . . .
>
> We have previously determined, above, that we shall utilize I&E's DCF and CAPM methodologies. I&E's DCF and CAPM produce a range of reasonableness for the ROE in this proceeding from 8.90% [DCF] to 9.89% [CAPM]. Based upon our informed judgment, which includes consideration of a variety of factors, including increasing inflation leading to increases in interest rates and capital costs since the rate filing, we determine that a base ROE of 9.75% is reasonable and appropriate for Aqua.[26]

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[25] *Penn. Pub. Util. Comm'n et.al. v. Aqua Penn. Wastewater Inc.*, Pennsylvania Public Utility Commission, Docket Nos. R-2021-3027385 and R-2021-3027386, Opinion and Order, at 154–155 (May 12, 2022) https://www.puc.pa.gov/pcdocs/1744354.pdf.

[26] *Id.*, at 177–178.

group of companies that is both publicly traded and comparable to PacifiCorp in certain fundamental business and financial respects to serve as its "proxy" in the ROE estimation process.

Even if PacifiCorp was a publicly traded entity, it is possible that transitory events could bias its market value over a given period. A significant benefit of using a proxy group is that it moderates the effects of unusual events that may be associated with any one company. The proxy companies used in my analyses all possess a set of operating and risk characteristics that are substantially comparable to PacifiCorp, and thus provide a reasonable basis to derive an estimate of the appropriate ROE for PacifiCorp.

Q. Please provide a brief profile of PacifiCorp.

A. PacifiCorp is an indirect, wholly owned subsidiary of Berkshire Hathaway Energy Company (BHE). PacifiCorp provides electric utility service to approximately 2.0 million residential, commercial and industrial customers in California, Idaho, Oregon, Utah, Washington and Wyoming.[27] In Washington, PacifiCorp provides electric service to approximately 140,000 residential, commercial, and industrial customers.[28] As of December 31, 2021, PacifiCorp's net utility electric plant in Washington was approximately $1.48 billion.[29] In addition, PacifiCorp had 2021 electric operating revenue in Washington of approximately $375 million, made up of 41.30 percent

[27] Berkshire Hathaway Energy Co, 2021 Form 10-K at 3, https://www.sec.gov/ix?doc=/Archives/edgar/data/0001081316/000108131622000004/bhe-20211231.htm.
[28] Direct Testimony of Matthew D. McVee.
[29] PacifiCorp d/b/a Pacific Power and Light Company, 2021 Annual Report to the Washington Utilities and Transportation Commission, at 10 and 219. https://www.utc.wa.gov/sites/default/files/2022-06/140%20-%20PacifiCorp%20-%202021%20-%20AR%20-%20FERC%20Form%201.pdf.

residential, 34.70 percent commercial, 18.48 percent industrial, and 5.51 percent public lighting, sales for resale and other.[30] PacifiCorp's electric operations in Washington represented 8 percent of PacifiCorp's electric sales in 2021.[31] Approximately 78.3 percent of PacifiCorp's 2021 net generation needs in Washington were satisfied by its owned and joint owned facilities while the remaining 21.7 percent was purchased power.[32] PacifiCorp currently has an investment grade long-term rating of A (Outlook: Stable) from S&P and A3 (Outlook: Stable) from Moody's.[33]

Q. How did you select the companies included in your proxy group?

A. I began with the group of companies that Value Line classifies as Electric Utilities and applied the following screening criteria to select companies that:

- pay consistent quarterly cash dividends, because companies that do not cannot be analyzed using the Constant Growth DCF model;
- have investment grade long-term issuer ratings from S&P and/or Moody's;
- are covered by more than one utility industry analysts;
- have positive long-term earnings growth rates from at least two equity analysts;
- own regulated generation assets;
- derive at least 40.00 percent of generation from own generation;
- derive at least 60.00 percent of their total operating income from regulated operating income;
- derive at least 60.00 percent of total regulated operating income from regulated electric operating income; and
- were not parties to a transformative transaction during the analytical periods relied on.

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[30] PacifiCorp d/b/a Pacific Power and Light Company, 2021 Annual Report to the Washington Utilities and Transportation Commission, at 2, https://www.utc.wa.gov/sites/default/files/2022-06/02-NEW-PPL-Supp-FERC-Form-1-5-25-22%20%282%29.pdf.
[31] Berkshire Hathaway Energy Company, 2021 Form 10-K, at 3, https://www.sec.gov/ix?doc=/Archives/edgar/data/0001081316/000108131622000004/bhe-20211231.htm.
[32] PacifiCorp d/b/a Pacific Power and Light Company, 2021 Annual Report to the Washington Utilities and Transportation Commission, at 12a, https://www.utc.wa.gov/sites/default/files/2022-06/02-NEW-PPL-Supp-FERC-Form-1-5-25-22%20%282%29.pdf.
[33] S&P Capital IQ Pro and Moody's Investor Services, Feb. 10, 2023.

Q. Did you exclude any other companies from the proxy group?

A. Yes. I also excluded Hawaiian Electric Industries, Inc. (HE) from my proxy group. HE's operations are concentrated on the islands of Hawaii; therefore, the company faces geographic concentration risk. As HE noted in the company's 2021 Form10-K:

> The Company is subject to the risks associated with the geographic concentration of its businesses and current lack of interconnections that could result in service interruptions at the Utilities or higher default rates on loans held by ASB [American Savings Bank].[34]

The increased risk of service interruptions resulting from HE's geographic location which could result in revenue loss and increased costs is a risk unique to HE and would not apply to utilities located on the U.S. mainland. Furthermore, HE's unregulated operations which represent approximately 33 percent of the company's operation income in 2021 are concentrated in the banking sector through the ownership of American Savings Bank (ASB).[35] ASB also only operates on Hawaii; thus, all of the company's consumer and commercial loans are to customers on Hawaii. If Hawaii were to face an adverse economic or political event, ASB could face severe financial effects given the company's geographic concentration in Hawaii.[36] As a result, I have excluded HE from my proxy group considering HE's unique geographical risks.

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[34] Hawaii Electric Industries, Inc., 2021 Form 10-K, at 23, https://www.hei.com/investor-relations/reports-and-filings/sec-filings-details/default.aspx?FilingId=14751750.

[35] *Id.*, at 86.

[36] *Id.*, at 20.

Q. What is the composition of your proxy group?

A. The screening criteria just discussed resulted in a proxy group consisting of the 17 companies shown in Figure 6.

Figure 6: Proxy Group

Company	Ticker
ALLETE, Inc.	ALE
Alliant Energy Corporation	LNT
Ameren Corporation	AEE
American Electric Power Company, Inc.	AEP
Avista Corporation	AVA
CMS Energy Corporation	CMS
Duke Energy Corporation	DUK
Entergy Corporation	ETR
Evergy, Inc.	EVRG
IDACORP, Inc.	IDA
NextEra Energy, Inc.	NEE
NorthWestern Corporation	NWE
OGE Energy Corporation	OGE
Otter Tail Corporation	OTTR
Portland General Electric Company	POR
Southern Company	SO
Xcel Energy Inc.	XEL

Q. Do your screening criteria result in a proxy group that is risk-comparable to PacifiCorp?

A. Yes. The overall purpose of developing a set of screening criteria is to select a proxy group of companies that align with the financial and operational characteristics of PacifiCorp and that investors would view as comparable to the Company. I developed the screens and thresholds for each screen based on judgment with the intention of balancing the need to maintain a proxy group that is of sufficient size against establishing a proxy group of companies that are comparable in business and financial risk to the Company. This resulted in the group of seventeen companies shown in Figure 6 that have business and financial risks comparable to PacifiCorp.

credit metrics and, therefore, credit ratings. To that point, S&P explains the importance of regulatory support for large capital projects:

> When applicable, a jurisdiction's willingness to support large capital projects with cash during construction is an important aspect of our analysis. This is especially true when the project represents a major addition to rate base and entails long lead times and technological risks that make it susceptible to construction delays. Broad support for all capital spending is the most credit-sustaining. Support for only specific types of capital spending, such as specific environmental projects or system integrity plans, is less so, but still favorable for creditors. Allowance of a cash return on construction work-in-progress or similar ratemaking methods historically were extraordinary measures for use in unusual circumstances, but when construction costs are rising, cash flow support could be crucial to maintain credit quality through the spending program. Even more favorable are those jurisdictions that present an opportunity for a higher return on capital projects as an incentive to investors.[56]

Therefore, to the extent that PacifiCorp's rates do not permit the opportunity to recover its full cost of doing business, PacifiCorp will face increased recovery risk and thus increased pressure on its credit metrics.

Q. How do PacifiCorp's capital expenditure requirements compare to those of the proxy group companies?

A. As shown in Exhibit No. AEB-12, I calculated the ratio of expected capital expenditures to net utility plant for PacifiCorp and each of the companies in the proxy group by dividing each company's projected capital expenditures for the period from 2023-2027 by its total net utility plant as of December 31, 2022. As shown in Exhibit AEB-12 (*see* also Figure 11 below), PacifiCorp's ratio of capital expenditures as a percentage of net utility plant of 98.86 percent is approximately 1.99 times the

[56] S&P Global Ratings, Assessing U.S. Investor-Owned Utility Regulatory Environments, at 7 (Aug. 10, 2016), https://fileservice.eca.comacloud.net/FileService.Api/file/FileRoom/12143406.

Q. How do credit rating agencies consider regulatory risk in establishing a company's credit rating?

A. Both S&P and Moody's consider the overall regulatory framework in establishing credit ratings. Moody's establishes credit ratings based on four key factors: (1) regulatory framework; (2) the ability to recover costs and earn returns; (3) diversification; and (4) financial strength, liquidity, and key financial metrics. Of these criteria, regulatory framework and the ability to recover costs and earn returns are each given a broad rating factor of 25.00 percent. Therefore, Moody's assigns regulatory risk a 50.00 percent weighting in the overall assessment of business and financial risk for regulated utilities.[57]

S&P also identifies the regulatory framework as an important factor in credit ratings for regulated utilities, stating: "One significant aspect of regulatory risk that influences credit quality is the regulatory environment in the jurisdictions in which a utility operates."[58] S&P identifies four specific factors that it uses to assess the credit implications of the regulatory jurisdictions of investor-owned regulated utilities: (1) regulatory stability; (2) tariff-setting procedures and design; (3) financial stability; and (4) regulatory independence and insulation.[59]

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[57] Moody's Investors Service, Rating Methodology: Regulated Electric and Gas Utilities, June 23, 2017, at 4, https://www.moodys.com/research/doc--PBC_1072530.
[58] Standard & Poor's Global Ratings, Ratings Direct, U.S. and Canadian Regulatory Jurisdictions Support Utilities' Credit Quality—But Some More So Than Others, at 2 (June 25, 2018).
[59] *Id.*, at 1.

Q. How does the regulatory environment in which a utility operates affect its access to and cost of capital?

A. The regulatory environment can significantly affect both the access to, and cost of capital in several ways. First, the proportion and cost of debt capital available to utility companies are influenced by the rating agencies' assessment of the regulatory environment. As noted by Moody's, "[f]or rate regulated utilities, which typically operate as a monopoly, the regulatory environment and how the utility adapts to that environment are the most important credit considerations."[60] Moody's has further highlighted the relevance of a stable and predictable regulatory environment to a utility's credit quality, noting: "[b]roadly speaking, the Regulatory Framework is the foundation for how all the decisions that affect utilities are made (including the setting of rates), as well as the predictability and consistency of decision-making provided by that foundation."[61]

Q. Have you conducted any analysis of the regulatory framework in Washington relative to the jurisdictions in which the companies in your proxy group operate?

A. Yes. I have evaluated the regulatory framework in Washington considering two factors which are important to ensuring PacifiCorp maintains access to capital at reasonable terms. As I will discuss in more detail below, the two factors are: 1) cost recovery mechanisms which allow a utility to recover costs in a timely manner between rate cases and provide the utility the opportunity to earn its authorized

[60] Moody's Investors Service, Rating Methodology: Regulated Electric and Gas Utilities, at 6 (June 23, 2017) https://www.moodys.com/research/doc--PBC_1072530.
[61] *Id.*

authorized ROE of 9.25 percent.[62] In addition, FitchRatings recently downgraded and maintained a negative outlook for APS and its parent, PNW, following the hearings conducted by the Arizona Corporation Commission (ACC) in October 2021 regarding APS' current rate case proceeding.[63] While the ACC had not issued a final order in APS' rate case at the time, FitchRatings noted that the developments at the hearing in October indicate a likely credit negative outcome that will negatively affect the financial metrics of both APS and PNW. It is also important to note that both Standard & Poor's and Moody's downgraded PNW's and APS' credit rating and put the companies on credit watch negative following the Commission's November vote that officially authorized the 8.70 percent ROE.[64]

Q. Are you aware of any utilities whose market data has been affected by adverse rate case developments?

A. Yes, I am. The market has responded negatively to recent returns authorized by the ACC. As noted above, the most recent ROE determination in Arizona was for APS. The Recommended Opinion and Order (ROO) issued in the APS rate proceeding on August 2, 2021, recommended an ROE of 9.16 percent. In October 2021, that recommendation was amended to reduce the company's ROE to 8.70 percent. The

[62] Moody's Investors Service, Credit Opinion: ALLETE, Inc. Update following downgrade, at 3 (Apr. 3, 2019) https://www.moodys.com/research/Moodys-downgrades-Pinnacle-West-to-Baa1-and-Arizona-Public-Service--PR_456814.

[63] FitchRatings, Fitch Downgrades Pinnacle West Capital & Arizona Public Service to 'BBB+'; Outlooks Remain Negative, (Oct. 12, 2021) https://www.fitchratings.com/research/corporate-finance/fitch-downgrades-pinnacle-west-capital-arizona-public-service-to-bbb-outlooks-remain-negative-12-10-2021.

[64] *See* S&P Capital IQ and Moody's Investors Service, "Rating Actions: Moody's downgrades Pinnacle West to Baa1 and Arizona Public Service to A3; outlook negative," (Nov. 17, 2021) https://www.moodys.com/research/Moodys-downgrades-Pinnacle-Rating-Action--PR_456814.

final ROE that was established for APS was 8.70 percent.[65] The market reacted strongly to the proposed order and subsequent amendment and final decision. Guggenheim Securities LLC, an equity analyst that follows PNW, the parent company of APS, informed its clients that

> [T]he "Arizona Corporation Commission is now confirmed to be the single most value destructive regulatory environment in the country as far as investor-owned utilities are concerned".[66]

S&P Global Market Intelligence (Regulatory Research Associates) noted that this decision was "among the lowest ROEs RRA had encountered in its coverage of vertically integrated electric utilities in the past 30 years."[67]

As shown in Figure 13 below, PNW's stock price declined approximately 24 percent from August 2, 2021 to November 4, 2021 following the issuance of the ROO, which recommended an ROE of 9.16 percent, and then the subsequent amendment to that opinion recommending the 8.70 percent ROE ultimately adopted by the ACC. Moreover, the Value Line five-year projected EPS growth rates for this company have fallen from 5.0 percent in July 2021, prior to the deliberations in the rate proceeding to "Nil" in October 2021 and most recently 0.5 percent in January 20, 2023. For PNW, the APS decision has had a significant effect on the share price and growth rate assumptions used in the DCF model.

[65] In the Matter of the Application of Arizona Public Service Company for a Hearing to Determine the Fair Value of the Utility Property of the Company for Ratemaking Purposes, to Fix a Just and Reasonable Rate of Return Thereon, to Approve Rate Schedules Designed to Develop Such Return, Arizona Corporation Commission Docket No. E-01345A-19-0236, Commissioner Olson Proposed Amendment No. 1 to the Recommended Opinion and Order (Sept. 29, 2021) https://docket.images.azcc.gov/E000015911.pdf?i=1680374997736.

[66] S&P Global Market Intelligence, Pinnacle West shares tumble after regulators slash returns in rate case, (Oct. 7, 2021) https://www.spglobal.com/marketintelligence/en/news-insights/latest-news-headlines/pinnacle-west-shares-tumble-after-regulators-slash-returns-in-rate-case-66991920.

[67] S&P Global Market Intelligence, RRA Regulatory Focus, Commission accords Arizona Public Service Company a well below average ROE, (Oct. 8, 2021).

reasons, I conclude that without the modifications sought by PacifiCorp to its mechanisms, the Company's business risks are somewhat higher than the proxy group which should be reflected in the authorized ROE.

C. Generation Ownership / Washington Clean Energy Transformation Act

Q. How does the business risk of vertically integrated electric utilities compare to the business risk of other regulated utilities?

A. According to Moody's, generation ownership causes vertically integrated electric utilities to have higher business risk than either electric transmission and distribution companies, or natural gas distribution or transportation companies.[68] As a result of this higher business risk, integrated electric utilities typically require a higher ROE or percentage of equity in the capital structure than other electric or gas utilities.

Q. Are there other risk factors specific to vertically integrated electric utilities that the credit rating agencies consider when determining the credit rating of a company that owns generation?

A. Yes. As discussed above, Moody's establishes credit ratings based on four key factors: (1) regulatory framework; (2) the ability to recover costs and earn returns; (3) diversification; and (4) financial strength, liquidity and key financial metrics. The third factor diversification, which Moody's assigns a 10.00 percent weighting in the overall assessments of a company's business risk, considers the fuel source diversity of a utility with generation. Moody's notes:

> For utilities with electric generation, fuel source diversity can mitigate the impact (to the utility and to its rate-payers) of changes in commodity prices, hydrology and water flow, and environmental or

[68] Moody's Investors Service, *Rating Methodology: Regulated Electric and Gas Utilities*, at 21-22 (June 23, 2017) https://ratings.moodys.com/api/rmc-documents/68547.

adjusted sales revenues to customers of two percent more than the previous year without demonstrating to the Commission that they have maximized investment in renewable resources and non-emitting resources prior to using alternative compliance measures.[70] Failure to meet these requirements and investor-owned utilities must pay an administrative penalty in the amount of one hundred dollars, times generation specific multipliers, for every megawatt-hour of electricity generation that does not come from non-emitting electric generation or a renewable resource.[71]

Q. Has the Company developed plans to meet these targets?

A. Yes. The Company has demonstrated its commitment to meeting these public policy goals. Specifically, PacifiCorp filed the Company's first Clean Energy Implementation Plan (CEIP) in January 2022, which outlined the Company's action plan over the four-year period of 2022 to 2025 to meet CETA's clean energy goals. The basis for the Company's CEIP was the 2021 Integrated Resource Plan which outlined its long-term resource plan that includes substantial investment in renewables generation from 2022 through 2040. For example, as discussed in PacifiCorp's update to its 2021 IRP, the Company has planned to add 5,297 MW of new solar generation, 4,160 MW of new wind generation, 5,546 MW of new storage resources and 500 MW of advanced nuclear generation.[72] Moreover, the Company plans to integrate the new renewable generation resources through significant

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[70] Senate Bill 51196, May 7, 2019, at 20, https://lawfilesext.leg.wa.gov/biennium/2019-20/Pdf/Bills/Session%20Laws/Senate/5116-S2.SL.pdf.

[71] *Id.*, at 23.

[72] PacifiCorp 2021 Integrated Resource Plan Update, March 31, 2022, at 3, https://www.pacificorp.com/content/dam/pcorp/documents/en/pacificorp/energy/integrated-resource-plan/2021-irp/Volume%20I%20-%209.15.2021%20Final.pdf.

investments that strengthen and modernize its transmission network. Finally, PacifiCorp plans to retire 14 of its 22 remaining coal units by 2030 and 19 of the 22 remaining units by 2040 while also retiring 1,554 MW of natural gas generation by 2040.[73] It is important to note that consistent with CETA, while PacifiCorp will still have coal generation assets operating after 2025, PacifiCorp will remove all coal generation assets from Washington's allocation of electricity.[74] Therefore, the Company has outlined significant plans to meet the clean energy goals of CETA.

Q. Have the credit rating agencies commented on PacifiCorp's capital spending plans?

A. Yes. S&P has noted that PacifiCorp's elevated capital spending plan, which includes plans to invest $2.5 billion in 3,900 MW of new and repowered wind and solar generation, will contribute to negative cash flow for the Company over the near-term.[75] Thus, S&P expects the capital spending plan will be partially funded with debt. This highlights the importance of a constructive regulatory outcome in this proceeding to sustain credit quality as the Company implements its CEIP.

Q. How does PacifiCorp's generation investment plan affect its business risk?

A. PacifiCorp's plan includes significant investment in building transmission and adding new renewable generation. This significant investment in transmission and renewable energy will as S&P notes require continued access to capital markets, which highlights the importance of granting PacifiCorp an allowed ROE and equity ratio that is sufficient to attract capital at reasonable terms.

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[73] *Id.*, at 12-13.
[74] *Id.*
[75] S&P Global Ratings, "PacifiCorp", at 1-2 (April 21, 2022).

interest costs," and that some offset in managing these headwinds include "higher authorized ROEs and the use of tools such as securitization of under-recovered fuel balances."[78]

Likewise, S&P also continues to maintain a negative outlook for the utility industry, noting that downgrades have outpaced upgrades for the third consecutive year in 2022 with a median investor-owned utility credit rating of "BBB+".[79] Further, S&P expects the industry to have negative discretionary cash flow as a result of significant capital spending and consistent dividends.[80] Therefore, the utility industry will need ongoing access to capital markets to fund the capital expenditures. However, S&P notes that inflation, rising interests rates and decreasing equity prices may "hamper" consistent access to capital markets and result in additional pressure on cash flows.[81] Moreover, S&P indicates that if inflation risks persist over the near-term and customer bills increase, regulatory credit support could decrease resulting in weaker financial metrics for the industry:

> Over the past decade the industry's financial measures have weakened from a combination of rising capital spending, regulatory lag, and lower authorized return on equity (ROE). The industry's return on capital was about 6% a decade ago and today is closer to 4%. More recently, we have seen instances where not only is the authorized ROE lowered but also the equity ratio is lowered. These results have weakened the industry's financial measures, pressuring credit quality. Under our base case of moderating inflationary risks during 2023, we expect the industry's credit measures to generally remain flat. However, if inflationary risks persist, it may further pressure the

[78] Fitch Ratings. North American Utilities, Power & Gas Outlook 2023. at 1-2 (Dec. 7, 2022) https://www.fitchratings.com/research/corporate-finance/north-american-utilities-power-gas-outlook-2023-07-12-2022.
[79] S&P Global Ratings. Industry Top Trends, North American Regulated Utilities: The industries outlook remains negative. (Jan. 23, 2023).
[80] *Id.*
[81] *Id.*

Service Date: March 19, 2024

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

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<tr><td>WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION,

Complainant,

v.

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

Respondent.</td><td>DOCKET UE-230172
(Consolidated)

ORDER 08</td></tr>
<tr><td>In the Matter of

ALLIANCE OF WESTERN ENERGY CONSUMERS'

Petition for Order Approving Deferral of Increased Fly Ash Revenues</td><td>DOCKET UE-210852
(Consolidated)

ORDER 06

REJECTING TARIFF SHEETS; APPROVING SETTLEMENT WITH CONDITIONS; AUTHORIZING AND REQUIRING COMPLIANCE FILING</td></tr>
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Synopsis: *The Commission approves and adopts a partial multiparty settlement, subject to limited conditions, which resolves the majority of the litigated issues in this general rate case filed by PacifiCorp d/b/a Pacific Power and Light Company (PacifiCorp or Company). The Commission also rules on issues around forecasted net power costs (NPC) and the Company's Power Cost Adjustment Mechanism (PCAM), which are not included in the Settlement.*

The Settlement provides for a two-year rate plan. It provides for an overall rate of return (ROR) of 7.29 percent without specifying underlying capital structure or return on equity (ROE). Among other points, the Settlement establishes a tracker for non-NPC costs associated with coal-fired facilities, allows for the recovery of costs associated with the gas conversion of Jim Bridger Units 1 and 2, and requires the Company to return fifty

percent of excess revenues associated with the sale of fly ash to Washington customers. The Settlement also requires the Company to work with the parties to develop a distributional equity analysis (DEA), a language access plan, and enhancements to its Low-Income Bill Assistance (LIBA) program.

The Commission conditions its acceptance of the Settlement on the Company tracking a limited number of additional performance metrics and investigating the costs of providing data at the census tract level on a more expedited timeline.

With regards to the power cost issues not resolved by the Settlement, the Commission requires the Company to forecast NPC based on rate years, consistent with Commission rule. The Commission maintains the Company's PCAM with its dead band and sharing bands without change.

As a result of the Settlement and the Commission's findings on disputed power cost issues, a typical residential electric customer using 1,200 kilowatt-hours per month will pay $4.37 more per month in rate year one, for an average monthly bill of $129.66, and will pay $6.07 more per month in rate year two, for an average monthly bill of $135.73. The Commission authorizes and requires PacifiCorp to make a compliance filing to recover in prospective rates its revenue deficiency of $12.68 million in RY1 and $21.1 million in RY2, subject to the Company revising the NPC forecast to the rate effective period rather than calendar period.

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BACKGROUND

1 **PROCEDURAL HISTORY.** On March 17, 2023, PacifiCorp d/b/a Pacific Power (PacifiCorp or Company) filed with the Washington Utilities and Transportation Commission (Commission) revisions to its currently effective Tariff WN U-76. The purpose of the filing is to increase rates and charges for electric service provided to customers in the state of Washington. Specifically, PacifiCorp requested a two-year rate plan with an increase in revenues of approximately $26.8 million for rate year one and an increase of approximately $27.9 million for rate year two. Under the Company's proposal, the average residential customer using 1,200 kilowatt-hours per month would receive a $12.11 increase in the first year, followed by a $9.34 increase in the second year.

2 On March 31, 2023, the Commission held a filing status conference to discuss deficiencies in the tariff filing and a potential timeline for the general rate case. At the conference, the presiding officer informed the Company that per Washington Administrative Code (WAC) 480-07-141(2)(d), the Commission found that the filing was so deficient that it would consider the filing date to be the date any replacement filing was made for the purpose of the general rate case's statutory suspension deadline.

3 On April 3, 2023, Walmart, Inc. (Walmart) filed a Petition to Intervene.

4 On April 4, 2023, the Alliance of Western Energy Consumers (AWEC) filed a Petition to Intervene.

5 On April 18, 2023, Sierra Club filed a Petition to Intervene.

6 On April 19, 2023, PacifiCorp filed with the Commission a replacement filing for approval of revisions to its currently effective Tariff WN U-76.

7 The Commission suspended operation of the tariff provisions on May 2, 2023, by Order 01 entered in this Docket.

8 On May 10, 2023, The Energy Project (TEP) filed a Petition to Intervene.

9 On May 12, 2023, the NW Energy Coalition (NWEC) filed a Petition to Intervene.

10 On May 17, 2023, the Commission convened a virtual prehearing conference, and on May 24, 2023, entered Order 03/01, Prehearing Conference Order; Order Consolidating

Dockets; and Notice of Hearing (PHC Order). The PHC Order granted intervention to all requesting parties and scheduled an evidentiary hearing for December 11, 2023.

11 On September 14, 2023, the non-Company parties filed response testimony pursuant to the procedural schedule in this docket.

12 On October 27, 2023, the parties filed Cross-Answering and Rebuttal Testimony pursuant to the procedural schedule.

13 On December 4, 2023, the parties filed their Joint Issues Matrix, proposed exhibit lists, witness lists, and cross-examination exhibits.

14 On December 6, 2023, the Company contacted the presiding officer to inform the Commission that PacifiCorp, Commission staff (Staff), AWEC, NWEC, TEP, and Walmart (collectively, the Settling Parties) had reached a partial settlement in principle.

15 On December 11, 2023, the Commission convened an evidentiary hearing limited to issues related to net power costs (NPC) and the power cost adjustment mechanism (PCAM), which were not subject to the settlement in principle.

16 On December 15, 2023, the Settling Parties submitted their settlement agreement (Settlement) and testimony in support of the Settlement.

17 On December 19, 2023, the Commission issued a Notice Modifying Procedural Schedule and Notice of Settlement Hearing, which scheduled a hearing on the Settlement Agreement on January 12, 2024.

18 On January 12, 2024, the Commission convened a settlement hearing, and PacifiCorp, AWEC, Public Counsel, Sierra Club, and Staff filed post-hearing briefs on the contested issues.

19 On February 2, 2024, PacifiCorp and AWEC, Staff, and Public Counsel filed post-settlement briefs concerning the proposed Settlement Agreement.

20 **PARTY REPRESENTATIVES.** Jocelyn Pease, Katherine McDowell, and Adam Lowney, McDowell Rackner Gibson PC, Portland, Oregon, and Carla Scarsella, Deputy General Counsel, and Ajay Kumar, Assistant General Counsel, Portland, Oregon, represent PacifiCorp. Nash Callaghan, Jeff Roberson, Josephine Strauss, Jackie Neira, and Liam Weiland, Assistant Attorneys General, Tumwater, Washington, represent

Staff.[1] Ann Paisner, Lisa Gafken, and Nina Suetake, Assistant Attorneys General, Seattle, Washington, represent the Public Counsel Unit of the Attorney General's Office (Public Counsel). Justina Caviglia, Parsons Behle & Latimer, Reno, Nevada, represents Walmart. Summer Moser and Tyler Pepple, Davison Van Cleve, P.C., Portland, Oregon, represent AWEC. Yochanan Zakai, Shute, Mihaly & Weinberger LLP, San Francisco, California, represents TEP. Irion Sanger and Joni Sliger, Sanger Law P.C., Portland, Oregon, represent NWEC. Rose Monahan, Staff Attorney, Oakland, California, represents Sierra Club.

21 **COMMISSION DETERMINATIONS.** This is PacifiCorp's first general rate case following the enactment of RCW 80.28.425 and the Commission's guidance in Cascade Natural Gas Corporation's 2021 general rate case, where the Commission emphasized the importance of the core tenets of energy justice. PacifiCorp's direct testimony raised a number of difficult questions around the forecasting and sharing of responsibility for power costs, the removal of coal from Washington rates, wildfire mitigation costs, equity, and numerous other issues.

22 The Settling Parties in this case arrived at a partial multiparty settlement after the filing of rebuttal and cross-answering testimony. This Settlement resolves all of the disputed issues in this case aside from forecast NPC and the Company's proposed modifications to the PCAM. It is joined by the majority of the parties, while Sierra Club takes no position on the Settlement, and Public Counsel objects to the Settlement.

23 After considering all of the evidence, we find it appropriate to condition our acceptance of the Settlement on (1) PacifiCorp investigating the costs of providing census tract data on a more expedited timeline and (2) requiring PacifiCorp to report on 14 additional metrics.

24 We have considered Public Counsel's objections to the Settlement, which primarily focus on the proposed overall rate of return (ROR) and the Settlement's treatment of equity but find these arguments unpersuasive. The proposed ROR reflects a reasonable compromise among the Settling Parties' positions and is consistent with overall market trends. With regard to equity, the Settlement requires the Company to develop more thorough frameworks for considering equity in future filings and includes several other relevant

[1] In formal proceedings such as this, the Commission's regulatory staff participates like any other party, while the Commissioners make the decision. To assure fairness, the Commissioners, the presiding administrative law judge, and the Commissioners' policy and accounting advisors do not discuss the merits of this proceeding with the regulatory staff, or any other party, without giving notice and opportunity for all parties to participate. See RCW 34.05.455.

terms, such as enhancing low-income customer programs and developing a language access plan.

25 Turning to the disputed issues in this case, the Commission requires PacifiCorp to forecast power costs based on the rate effective period, consistent with Commission rule. The Commission declines to modify the Company's PCAM, as the current mechanism encourages prudent decisions. Although PacifiCorp argues that the PCAM should be simplified or eliminated due to the Company joining the Extended Day-Ahead Market (EDAM), EDAM will not commence until 2026, and joining the market does not eliminate the Company's responsibility for managing its power costs.

MEMORANDUM

I. STANDARD OF REVIEW

A. Regulating in the public interest and determining equitable, fair, just, reasonable, and sufficient rates

26 The Legislature has entrusted the Commission with broad discretion to determine rates for regulated industries. Pursuant to RCW 80.28.020, whenever the Commission finds after a hearing that the rates charged by a utility are "unjust, unreasonable, unjustly discriminatory or unduly preferential, or in any wise in violation of the provisions of the law, or that such rates or charges are insufficient to yield a reasonable compensation for the service rendered, the commission shall determine the just, reasonable, or sufficient rates, charges, regulations, practices or contracts to be thereafter observed and in force, and shall fix the same by order."[2]

27 As a general matter, the burden of proving that a proposed increase is just and reasonable is upon the public service company.[3] The burden of proving that the presently effective rates are unreasonable rests upon any party challenging those rates.[4]

28 More recently, in 2019, the Legislature expanded the traditional definition of the public interest standard. As Washington state transitions to a clean energy economy, the public interest includes: "The equitable distribution of energy benefits and reduction of burdens

[2] *See also* RCW 80.01.040(3) (providing that the Commission shall "[r]egulate in the public interest").

[3] RCW 80.04.130(1).

[4] *WUTC v. Pacific Power and Light Company*, Cause No. U-76-18 (December 29, 1976) (internal citations omitted).

to vulnerable populations and highly impacted communities; long-term and short-term public health, economic, and environmental benefits and the reduction of costs and risks; and energy security and resiliency."[5] In achieving these policies, "there should not be an increase in environmental health impacts to highly impacted communities."[6]

29 In 2021, the Legislature again expanded upon the public interest standard in the context of reviewing multiyear rate plans. RCW 80.28.425 provides that "[t]he commission's consideration of a proposal for a multiyear rate plan is subject to the same standards applicable to other rate filings made under this title, including the public interest and fair, just, reasonable, and sufficient rates." The statute continues, "In determining the public interest, the commission may consider such factors including, but not limited to, environmental health and greenhouse gas emissions reductions, health and safety concerns, economic development, and equity, to the extent such factors affect the rates, services, and practices of a gas or electrical company regulated by the commission."[7]

30 Following the passage of RCW 80.28.425, the Commission indicated its commitment to considering equity while regulating in the public interest: "So that the Commission's decisions do not continue to contribute to ongoing systemic harms, we must apply an equity lens in all public interest considerations going forward."[8] The Commission also indicated that regulated companies should be prepared to address equity considerations in future cases: "Recognizing that no action is equity-neutral, regulated companies should inquire whether each proposed modification to their rates, practices, or operations corrects or perpetuates inequities."[9]

31 This is PacifiCorp's first general rate case following the passage of RCW 80.28.425 and the legislature's expansion of the public interest standard. In this Order, we consider whether the Settlement complies with RCW 80.28.425 and other applicable laws. We also consider whether the Settlement places PacifiCorp on a reasonable, appropriate path to considering equity issues and other factors that the legislature has emphasized in its vision of Washington's clean energy transformation.

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[5] RCW 19.405.010(6).

[6] *Id.*

[7] *Id.*

[8] *WUTC v. Cascade Natural Gas Corporation,* Docket UG-210755 Order 10 ¶ 58 (August 23, 2022).

[9] *Id.*

B. The Commission's process for considering settlements

32 Pursuant to 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."

33 The Commission has emphasized that our purpose is "to determine whether the Settlement terms are lawful and in the public interest."[10] While the Commission "do[es] not consider the Settlement's terms and conditions to be a 'baseline' subject to further litigation,"[11] it may modify or reject a settlement that is not in the public interest.[12]

The Commission may therefore take one of the following actions after reviewing a settlement: (1) approve the proposed settlement without condition, (2) approve the proposed settlement subject to condition(s), or (3) reject the proposed settlement.[13]

34 If the Commission approves a proposed settlement without condition, the settlement is adopted as the Commission's resolution of the proceeding.[14] If the Commission approves a proposed settlement subject to any conditions, the Commission will provide the settling parties an opportunity to accept or reject the conditions.[15] When the settling parties accept the Commission's conditions, the Commission's order approving the settlement becomes final by operation of law.[16] However, when one or more of the settling parties rejects the Commission's conditions, the Commission deems the settlement rejected and the procedural schedule reverts to the point in time where the Commission suspended the procedural schedule to consider the settlement.[17]

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[10] *WUTC v. Avista Corp.*, Dockets UE-080416 and UG-080417 (consolidated), Order 08, ¶ 20 (December 29, 2008).

[11] *Id.*

[12] *Id.*

[13] WAC 480-07-750(2).

[14] *See* WAC 480-07-750(2)(a).

[15] WAC 480-07-750(2)(b). *Accord WUTC v. Avista Corp.*, Dockets UE-080416 and UG-080417 (consolidated), Order 08, ¶¶ 19-20 (December 29, 2008).

[16] WAC 480-07-750(2)(b)(i).

[17] WAC 480-07-750(2)(b)(ii). *See also* WAC 480-07-750(c).

II. THE PARTIAL MULTIPARTY SETTLEMENT

A. Overview of the Partial Multiparty Settlement and Supporting Testimony

35 On December 15, 2023, the Settling Parties filed a multiparty settlement that resolves all issues in this proceeding except those related to forecasted NPC and the Company's PCAM. Like the Company's initial filing, the Settlement proposes a two-year multiyear rate plan (MYRP).

36 The Settlement provides for a revenue requirement increase of $13,786,955 for rate year 1 (RY1) and $21,065,564 for rate year 2 (RY2).[18] These figures are based on the Company's rebuttal testimony unless agreed to otherwise in the Stipulation, and the figures "are subject to change based on a final Commission determination on litigated NPC issues, and a final NPC update."[19]

37 The Settlement notes that, consistent with Company witness Cheung's rebuttal testimony, the Company agrees to exclude projects that are no longer expected to be in service in 2025.[20] The Company will also reflect all projects actually placed in service before December of 2022 as traditional pro-forma capital additions.[21] The Settling Parties provide that "[a]ll other revenue requirement adjustments raised by any party in this proceeding, other than adjustments related to NPC, are resolved by this Settlement Stipulation without any Party taking a position on such adjustments."[22]

38 The Settling Parties agree to other adjustments and modifications to the Company's initial and rebuttal filings. At a high level, these terms include:

1. *Overall Revenue Requirement.* As noted above, the Settlement provides for a revenue requirement increase of $13,786,955 for RY1 and $21,065,564 for RY2.[23] The Settling Parties state that this revenue requirement is inclusive of the Jim Bridger and Colstrip costs that will be recovered through a coal-fired facilities tracker as part of the Settlement.[24]

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[18] Settlement ¶ 8.

[19] *Id.*

[20] *Id.* ¶ 9.

[21] *Id.* (citing Cheung, Exh. SLC-8T 2:9-5:13).

[22] *Id.*

[23] *Id.* ¶ 8.

[24] *Id.* n. 8.

2. *Cost of capital*. The Settling Parties "agree to an overall rate of return of 7.29 percent" and that "the specific return on equity, cost of debt, and capital structure shall remain unspecified."[25]

3. *Power costs*. As noted above, forecasted NPC and any potential changes to the Company's PCAM remain litigated issues.[26]

4. *Capital Additions for Colstrip Unit 4*. All pro-forma capital additions for Colstrip Unit 4 are excluded from the proposed revenue requirement.[27]

5. *Coal-fired Facilities Tracker*. The Company will "establish a tracker for non-NPC costs associated with coal-fired facilities for ease of review during provisional capital review filings requirement."[28] The parties retain their rights to challenge the prudency of coal-fired generation expenses in future proceedings.[29]

6. *Jim Bridger Units 1 and 2*. Washington shall continue to pay for its allocated share of operating and maintenance costs (O&M) and capital additions following the gas conversion of these resources.[30] Consistent with the Company's rebuttal testimony, O&M costs for these resources are reduced by approximately $3.1 million in RY1 and $760 thousand in RY2.[31]

7. *Fly ash*. 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, effectively reducing rates by $3.4 million over two years.[32]

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[25] Settlement ¶ 10.

[26] *Id.* ¶ 11.

[27] *Id.* ¶ 12.

[28] *Id.* ¶ 13.

[29] *Id.*

[30] *Id.* ¶ 14.

[31] *Id.* ¶ 15 (citing Cheung, Exh. SLC-8T).

[32] *Id.* ¶ 16.

8. *Decoupling*. The Settlement modifies the earnings test for the Company's decoupling mechanism, instead applying the earnings test set forth in RCW 80.28.425(6).[33]

9. *Equity*. The Company "agrees to 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."[34] The Company will develop a distributed equity analysis (DEA) for capital projects that are situs-assigned to Washington, and it will also develop costs and benefits for equity analysis in collaboration with its Equity Advisory Group (EAG), Integrated Resource Plan Advisory Group, and "its customers, particularly in Named Communities."[35] The equity provisions of the Settlement are discussed more fully below.

10. *Low-income / language access plan / disconnections.* The Company will work with its Low-Income Advisory Group (LIAG) and EAG to develop enhancements to its Low-Income Bill Assistance (LIBA) Program and create an arrearage management plan.[36] The Company will seek consensus regarding the self-declaration to income, among other items, and it will propose these tariff revisions to the Commission in a compliance filing by April 30, 2025.[37] The Company will increase LIBA discount percentages as proposed by its witness Robert Meredith at the start of RY1 and RY2.[38] The Settlement also requires the Company to develop a Language Access Plan, following specific conditions, and to make "best efforts" to implement this plan prior to filing its next general rate case.[39] Until the Commission rulemaking in Docket U-210800 is concluded, PacifiCorp will raise the threshold for disconnections for nonpayment from $50 to $150, and the Company will conduct a "robust equity review" of its disconnection practices in consultation with the LIAG

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[33] *Id.* ¶ 17. *See also id.* ¶ 30(b).

[34] *Id.* ¶ 18.

[35] *Id.*

[36] *Id.* ¶ 19.

[37] *Id.* ¶¶ 19-20.

[38] *Id.* ¶ 21 (citing Meredith, Exh. RMM-1T at 28-29).

[39] *Id.* ¶ 22.

and EAG.[40] The Company will also work with its Demand Side Management (DSM) Advisory Group to develop a pilot program for weatherizing homes in need of significant repairs and to implement progress payments to weatherization agencies.[41]

11. *Inflation Reduction Act (IRA) / Infrastructure Investment and Jobs Act (IIJA).* The Company will report on all IRA/IIJA benefits for which it applied in its annual capital review filing, and it will participate in a collaborative with other investor-owned utilities regarding potential IRA/IIJA benefits.[42]

12. *Wildfire Mitigation Costs.* The Company may recover wildfire mitigation costs as set forth in the rebuttal testimony of Company witness Allen Berreth, Exh. No. ALB-3T.[43]

13. *Performance Metrics.* In addition to the metrics proposed in PacifiCorp's rebuttal testimony, the Company will report on the following metrics:

    a. Average annual bill for the Washington residential class by zip code.
    b. Percentage of LIBA program funding dispersed to Washington customers.
    c. Washington-allocated net-plant-in-service per customer.
    d. Washington-allocated O&M per customer.
    e. Change in average annual price per megawatt-hour for the residential class as compared to inflation.[44]

    PacifiCorp will also investigate the costs of providing affordability data at the census tract level and provide this information in its next general rate case.[45]

14. *MYRP Annual Review of Provisional Pro Forma Capital and Earnings Test.* The Parties agree that the annual provisional pro-forma capital reviews will be performed at the portfolio level except for Gateway South, Gateway West,

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[40] *Id.* ¶ 23.

[41] *Id.* ¶ 24.

[42] *Id.* ¶ 25.

[43] *Id.* ¶ 26.

[44] *Id.* ¶ 27.

[45] *Id.* ¶ 28.

and new wind resources.[46] The Settlement provides for a process for annual, provisional pro-forma capital reviews and addresses the application of the earnings test in RCW 80.28.425(6).[47] PacifiCorp will "refund all amounts for plant not placed in service by the forecasted date, regardless of the Company's earnings."[48]

15. *Cost of Service / Rate Spread / Rate Design.* The Company withdraws its proposed amendments to net metering and net billing.[49] The Company will implement the price change in this proceeding as an equal percentage price change for all classes for both years of the MYRP.[50] The Settlement contains several other provisions regarding rate spread and rate design. For example, residential energy charges will transition to non-tiered pricing over the course of the two-year rate plan.[51] Residential Basic Charge increases by $0.75 for single-family customers and decreases by $1.00 for multi-family customers.[52]

39 The Settlement is not precedential, and "no Party shall be deemed to have agreed that any provision of this Stipulation is appropriate for resolving issues in any other proceeding."[53]

40 The Commission conducts an independent review of the Settlement and considers whether the proposed rate increase and various terms of the Settlement are in the public interest. We consider the Settlement in light of the Supporting Testimony and all of the other relevant evidence admitted into the record, including cross-examination at the evidentiary hearing and later settlement hearing.

41 While the Settlement's overall ROR is higher than that proposed by the non-Company parties in their response testimony, the Settlement represents a negotiation and compromise between the Settling Parties' positions. The Settlement includes several other terms that are favorable for Washington customers. The Settlement, for example, results in proposed revenue requirement over the two-year rate plan that is $10.4 million

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[46] *Id.* ¶ 29.

[47] *Id.* ¶ 30.

[48] *Id.*

[49] *Id.* ¶ 31.

[50] *Id.*

[51] *Id.*

[52] *Id.*

[53] *Id.* ¶ 40.

lower than that proposed in Staff's response testimony.[54] It also requires the Company to recognize increased revenues from the sale of fly ash, resulting in the equivalent of a $3.4 million rate reduction over two years.[55] We consider all of these terms holistically when considering whether the Settlement arrives at a fair, just, reasonable, and sufficient end result.

42 Given the number of issues, however, this Order focuses on the specific issues of concern to the Commission and on Public Counsel's objections to the Settlement. Public Counsel raises four objections to the Settlement: (1) that the Settlement lacks any evidence of equity impacts of the proposed rate increase, increase to monthly basic charge, and portfolio basis pro forma review; (2) that the Settlement's overall ROR should be reduced; (3) that the Commission should disallow certain costs related to Jim Bridger Units 1 and 2; and (4) that the Commission should require PacifiCorp to track and report on the same performance measures as Puget Sound Energy (PSE) and Avista Corporation d/b/a Avista Utilities (Avista).[56] We address each of these issues in turn.

B. Whether the Settlement's Treatment of Equity is Consistent with the Public Interest

43 As noted above, the Settlement contains several provisions related to equity and to issues facing low-income customers. These concepts are analytically distinct, but we will discuss and evaluate them together in this section in light of all of the testimony of record.

PacifiCorp's Direct Testimony

44 Company witness Matthew D. McVee provides an overview of the Company's direct testimony. McVee posits the Company has incorporated equity through proposals in this general rate case (GRC) to replace tiered energy usage with seasonal charges, to split the basic monthly charge into two separate charges for single-family homes and multi-family homes, and to construct two new substations with 115kV transmission lines.[57] McVee also describes the Company's general efforts to promote equity internally.

45 Company witness Robert M. Meredith details the Company's proposal to split the basic monthly charge for different customer types and replace tiered usage rates with a seasonal rate structure. The Company proposes to split the basic monthly charge for

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[56] Public Counsel Settlement Brief at i.

[57] McVee, Exh. MDM-1T at 20:9-16.

multi-family residences and single-family residences, increasing only the rate for single family residences, from $7.75 per month to $10 per month.

46 *Table 1: Proposed Changes to the Basic Monthly Charge*

Customer Type	Current	Proposed	Increase
Single-Family	$7.75	$10.00	29%
Multi-Family	$7.75	$7.75	0%

59 Witness Meredith justifies this increase by arguing that line transformer costs should be included in these calculations, noting that "[t]he residential basic charge should include the fixed costs associated with customer service, billing, and the local infrastructure that is located geographically close to the customer and is dedicated to serving one or a small number of customers." Meredith argues that it is appropriate for the basic charge to recover "portions of the Distribution function that are related to meters, services or service drops and line transformers.[58]

60 Meredith further testifies that transformer charges should be included in the basic monthly charge because transformers typically provide service to a small set of customers close in geographic proximity to each other. "On average, 2.9 single-family residential customers are served by a transformer compared to 9.1 multi-family customers per transformer."[59]

61 The Company also proposes to eliminate tiered usage in favor of seasonal usage. Meredith notes "While well intentioned, tiered rates produce more problems than they solve. Tiered rates are unfair, are not economically justified, and create perverse incentives. In addition, tiered rate structures can be a source of confusion for residential customers."[60]

62 The Company proposes to implement seasonal rates during a two-year transition which it believes "would better reflect the economics of energy consumption and would treat customers more fairly, regardless of household size or heating fuel used."[61] The Company proposes to implement summer rates (June through September) at 1.921 cents more per kWh than the proposed winter rates which would be effective October through

[58] Meredith, Exh. RMM-1T at 13:4-10.

[59] *Id.* at 13:18-20.

[60] *Id.* at 18:20-23.

[61] *Id.* at 24:10-12.

May.[62] This proposal is shown in Table 2 below.

Table 2: Proposed Changes to the Residential Rate Structure (Year 2)

Customer Type	Basic Monthly Charge	Summer Rate per kWh (Jun. – Sept.)		Winter Rate per kWh (Oct. – May)	
Single-Family	$10.00	$0.12879	(On-Peak) $0.15939	$0.10958	(On-Peak) $0.14018
			(Off-Peak) $0.10634		(Off-Peak) $0.08713
Multi-Family	$7.75	$0.12879	(On-Peak) $0.15939	$0.10958	(On-Peak) $0.14018
			(Off-Peak) $0.10634		(Off-Peak) $0.08713

63 Meredith argues that a tiered rate structure arbitrarily benefits some customers at the expense of others, and low-income customers who do not have an alternative heating source pay more for consumption than customers with heating alternatives. Meredith asserts that without an alternate heating source like natural gas, low-income customers are more reliant on electricity, thus more likely to be pushed into the second or third tier of usage, which is more expensive.[63]

64 Additionally, Meredith submits that the timing of a customer's usage (time-of-day peak usage or winter usage), is a better reflection of the actual costs to provide the service than an arbitrary threshold causing service to become more expensive, even though there is no difference in the cost to the Company when a customer's usage falls into a higher tier.[64] Finally, Meredith states that the existing rate structure may incentivize customers with higher electric consumption to obtain natural gas services, which may be cheaper but are

[62] *Id.* at 24:13-14.

[63] *Id.* at 23:3-13.

[64] *Id.* at 21:2-9.

contrary to Washington's climate goals. Meredith testifies, "I believe the Company's residential pricing proposals, taken as a whole, better align with cost causation and will be more equitable for customers."[65]

65 The Company also proposes to bolster its low-income assistance programs by increasing the discount amounts in each of the three tiers, so they effectively double each year of the MYRP.[66] Meredith notes this requirement to increase bill assistance each year may become unsustainable, and there will likely be a point where the Company is unable to expand its discounts.[67]

66 With regards to equity, Company witness Christina M. Medina testifies to the Company's broader efforts to promote equity both internally and externally. Medina summarizes the roles and responsibilities of the Company's three personnel with "targeted equity responsibilities."[68] Medina's testimony indicates the Company employs one internal representative who focuses on developing and implementing strategies that advance Diversity, Equity and Inclusion within PacifiCorp, one person who focuses on external equity by steering the Equity Advisory Group and acting as a Tribal liaison, and another employee who serves in a supporting role. Medina acknowledges the importance of equity as well as previous guidance offered by the Commission, then proceeds to speak to the Company's equitable endeavors outside of this GRC, such as instituting a disconnection moratorium during adverse weather events.

67 Medina explains the Company did not submit a distributional equity analysis in this GRC as the Commission has rejected similar analyses by other investor-owned utilities and instead indicated plans for a broad, collaborative process to establish methods and standards for distributional equity analysis. PacifiCorp intends to participate in this process once established by the Commission.[69]

68 Company witness Richard A. Vail speaks to the equity considerations related to the build-out of a new substation and 115kV distribution lines in Yakama tribal territory. Vail states the Company in December 2022 completed construction of a new substation in the Flint area north of the Yakima River which extends a new 115 kV transmission line approximately 9.3 miles. Vail notes these projects "help resolve capacity restrictions at the existing Wapato and Toppenish Substations that are located on the Yakama Indian

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[65] *Id.* at 12:9-11.

[66] *Id.* at 28:13-14.

[67] *Id.* at 29:1-6.

[68] Medina, Exh. CMM-1T at 2:7.

[69] *Id.* at 11:15-21.

Reservation . . . ." Vail explains the Yakama Tribe recently enacted restrictions to prevent the upgrade of distribution system facilities that supply areas off tribal lands.[70]

Response Testimony

69 Staff witness Molly A. Brewer testifies the Company failed to provide sufficient evidence that it is planning for equitable outcomes or applying an equity lens in its capital planning processes in this MYRP. Brewer notes the Company had approximately six months to review Commission issued guidance from the Cascade Natural Gas Order entered August 23, 2022, and three months' time to incorporate guidance from the most recent Avista and PSE Orders, both entered in December 2022.[71]

70 Brewer writes that Staff engaged the Company representatives in a series of discussions, and Staff issued data requests to gather more information related to the Company's equitable endeavors, only to be instructed to review the direct testimony offered by the Company. In light of this, "Staff found it was unclear whether the Company applied an equity lens to the proposal for seasonal energy charges and split the basic charge."[72] Brewer concludes, "Staff is not convinced that approving seasonal rates is in the public interest generally, nor that seasonal rates would improve distributional equity specifically, based on the record in this case."[73]

71 With respect to the projects on Yakama tribal lands, Brewer argues that the Company did not actually apply an equity framework:

> Staff finds this to be inadequate because the Company is expected to respect a tribal nation's restrictions regardless of any equity laws or frameworks. Staff does not find that this constitutes applying any sort of equity framework at the time of making the decision, or actively applying the tenants [sic] of equity justice. Rather, Staff speculates that because the projects were in relation to a tribe, the Company may have listed these projects as related to equity…[74]

72 Brewer disagrees with the Company's statement that the Commission rejected DEA proposals by both Avista and PSE.[75] Brewer clarifies that the Commission instead modified both Avista and PSE's settlement stipulation terms related to a DEA to state

[70] Vail, Exh. RAV-1T at 27:2-10.

[71] Brewer, Exh. MAB-1T at 7:15-20, 9:17-19.

[72] *Id.* at 14:20-21.

[73] *Id.* at 15:12-14.

[74] Brewer, Exh. MAB-1T at 16:3-9.

[75] Medina, Exh. CMM-1T at 11:14-21.

that there will be a Commission-led process to refine DEA methodology, rather than a Commission Staff-led process, and this does not mean the Commission rejected these companies' DEA proposals.

73 Brewer recommends that the Commission require: (1) that the Company develop a DEA alongside any existing benefit-cost analysis and participate in the Commission's on-going equity docket when made available;[76] (2) that the Company develop benefits and costs related to equity for use in its transmission and distribution capital planning;[77] and (3) that the Company develop customer-focused system evaluation thresholds that reflect disproportionate impacts on particular circuits or census tracts.[78]

74 Public Counsel witness Corey J. Dahl argues the Company's equity considerations in this proceeding are inadequate. Although Company witness Medina claims the Company considered equity in coming to certain decisions, Dahl maintains that the Company failed to provide any specific evidence or analysis to support these claims. In the absence of any detailed evidence substantiating PacifiCorp's claims, Public Counsel recommends the Commission take the following actions:

- Require the Company to conduct an equity impact analysis of the rate impacts for Named Communities and submit this analysis as a compliance filing, and the Commission should set rates eligible for refund based on the results of the analysis;
- Require the Company to design a bill assistance program[79] in collaboration with the low-income advisory group that aligns with peer utilities; and
- Require the Company to conduct an equity impact analysis and submit evidence of those analyses for all future rate filings, including GRCs, and Power Cost Adjustments.[80]

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[76] Brewer, Exh. MAB-1T at 25:11-19.

[77] *Id.* at 29:15-17.

[78] *Id.* at 32:5-6.

[79] The Commission notes that other investor-owned utilities have revamped their respective assistance programs to include multiple discount tiers to closely target assistance with need, a self-attestation model that reduces barriers of entry for the assistance programs, and robust auditing procedures to mitigate any abuse of the self-attestation model.

[80] Dahl, Exh. CJD-1T at 20:12-21, 21:1-3.

75 Shaylee N. Stokes testifies on behalf of TEP with respect to the Company's low-income assistance proposals. Witness Stokes references the Company's Energy Burden Assessment conducted in 2022, which identified a need for additional assistance and equitable distribution of this need in census tracts with higher proportions of people of color.[81] Stokes also notes this assessment conducted by the Company identified a shortcoming of approximately $8.7 million between existing funding levels and estimated needs in the Company's Washington territory. Using customer data from this assessment, Stokes estimates that only 13.8 percent of customers eligible for the bill assistance program are enrolled in the program.[82] Stokes says this illustrates the need for the Company to enhance its programs to help alleviate high energy burdens for customers.[83]

76 Stokes recommends the Commission take the following actions:

- Deny the request to split the basic monthly charge while increasing this charge from $7.75 to $10 for single-family residences;
- Collaborate with the LIAC (Low-Income Advisory Committee) to enhance the Low-Income Bill Assistance (LIBA) program by Oct. 1, 2025, and develop an Arrearage Management Plan by Oct. 1, 2024, that aligns with other investor-owned utilities;
- Approve the request to increase the current discount percentages for customers participating in the LIBA;
- Develop a language access plan to help reach non-English speaking customers; and
- Enhance the low-income weatherization program.[84]

77 NWEC witness Lauren McCloy opposes the Company's proposal to increase the basic monthly charge and provides three arguments as the basis for NWEC's opposition. McCloy contends the basic monthly charge is frequently called the "customer charge" because the costs included in this charge cover the costs of providing service to a specific

[81] Stokes, Exh. SNS-1T at 5:3-7.

[82] Exh. No. SNS-3 at 17. Stokes notes the assessment reports 107,000 total Washington customers, and 45 percent fall below the income thresholds of 80 percent AMI. Stokes arrives at this 13.8 percent figure as (107,000 X 45% = 48,150) The report only reports 6,625 customers currently enrolled. (6,625 / 48,150 = 13.8%).

[83] Stokes, Exh. SNS-1T at 5:10-17.

[84] *Id.* at 32:7-8.

customer. Other costs associated with generation, transmission, and distribution are summed and spread amongst the entire customer base.[85] Witness McCloy also quotes the Commission's final order resolving PSE's 2017 general rate case, which rejected a similar proposal to include transformer costs in basic charges:

> We are not persuaded on the basis of the current record that transformer costs should be recovered in basic charges, or through a minimum bill. We have never approved such a proposal and continue to believe these costs are not customer-related costs as that term is generally understood. Transformer costs should be recovered as distribution charges subject to PSE's electric decoupling mechanism, which adequately protects the [utility's] recovery of its fixed costs.[86]

78 McCloy argues the Commission should not waver from this strong directive by allowing the Company to include transformer costs in the basic monthly charge. [87]

79 McCloy argues that increasing the basic monthly charge, as the Company is proposing, would remove the incentive for customers to become more energy efficient. McCloy explains that "[i]f the fixed charge [meaning the basic monthly charge] is high and the variable charge [customer consumption] is low, or lower, customers will not save as much on their energy bill by choosing to either use less energy (conservation) or investing in more energy efficient equipment (efficiency)."[88]

80 Regarding the proposal to eliminate tiered usage in favor of seasonal usage, McCloy acknowledges that the Commission may need to examine the efficacy of the traditional tiered structure but only if there is a decent alternative:

> However, the replacement structure cannot lead to the elimination of gains made in the areas of energy efficiency and conservation through rate design. The replacement structure must continue to send a strong price signal to encourage reduced overall usage as well as usage during times of low demand where possible. I don't believe Pacific Power's proposal in this case meets that need.[89]

81 To illustrate the potential rate impacts of this proposal, McCloy sets up a scenario using the proposed structure and rates using the data from Table 4 in Company Witness

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[85] McCloy, Exh. LM-1T at 28:4-14.

[86] *Id.* at 30:13-20 (citing *WUTC v. Puget Sound Energy,* Dockets. UE-170033 and UG-170034 *(Consolidated)* Final Order 08 at ¶ 120 (December 5, 2017)).

[87] *Id.* at 31:3-7.

[88] McCloy, Exh. LM-1T at 32:9-17.

[89] *Id.* at 38:6-11.

Meredith's testimony. Under the current structure and rates, a customer using 1,129 kWh per month would see variable consumption charges of $108.89[90] per month. Under the proposed structure and rates offered by the Company this same customer would see consumption charges of no less than $123.71[91] and in the summer months, this customer would see consumption charges of $145.40.[92]

82 With respect to both rate design proposals from the Company, Witness McCloy recommends denying both proposals and requiring the Company to complete its time-of-use (TOU) pilot and, using data from the pilot, propose TOU rates across its service territory in the next general rate filing.[93]

Rebuttal Testimony

83 Company Witness McVee argues that although the Commission has provided previous guidance on a case-by-case basis for other regulated entities, this guidance is "high-level."[94] McVee contends, "The Commission has not provided generally applicable guidance regarding what it expects in equity analyses, or specific equity metrics or parameters…"[95]

84 In response to Staff's claims that the Company failed to provide documentation or evidence that it factored in equity considerations during the decision-making process, Witness McVee argues that EAG members "expressed their preference for not having their meeting records or transcripts published, and the Company respects their wishes by honoring their request." McVee indicates the Company looks forward to the ongoing collaboration with the Commission, Staff, stakeholders, and its advisory groups to improve the documentation of these types of interactions in the on-going proceeding in Docket A-230217.[96]

85 With regards to the Company's proposed rate design, Witness Meredith states that these proposals are equitable because the existing tiered rates "artificially penalize customers for factors outside of their control" and the Company's proposal for seasonal rates

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[90] (600 kWh X .08276) + (529 kWh X .11198).

[91] 1,129 kWh X .10958.

[92] 1,129 kWh X .12879.

[93] McCloy, Exh. LM-1T at 39:3-12.

[94] McVee, Exh. MDM-2T at 28:2-6.

[95] McVee, Exh. MDM-2T at 27:4-6.

[96] *Id.* at 32:10-17.

"appropriately recognizes factors that actually make a difference to the Company's costs."[97]

86 Meredith provides information from the Company's 2020 GRC in Oregon that resulted in a 40 percent flattening of tiered rates and the creation of a lower basic monthly charge for multi-family customers.[98] Meredith also writes that in its 2022 GRC in Oregon, the Oregon Public Utility Commission approved the elimination of tiered rates in favor of seasonal rates and increased the basic monthly charge from $9.50 to $11.00.[99]

87 Responding to Staff and Public Counsel's recommendations to conduct a DEA, Meredith provides an analysis of rate impacts as shown in Table 3 below:

88 *Table 3: Impact to Average Bills for Residential Customers in HIC, and Low-Income Bill Assistance Participants Compared to Impact of Average Bills for All Other Residential Customers*[100]

Customer Type	Present Bill ($)	Proposed Bill ($)	Change ($)	Change (%)
Highly Impacted Communities and Low-Income Bill Assistance Customers	113.09	129.94	16.85	14.9
All Other Residential Customers	131.28	153.27	21.99	16.7

[97] Meredith, Exh. RMM-12T at 13:2114:1-2.

[98] *In the Matter of PacifiCorp, dba Pacific Power, Request for a General Revision,* Oregon Public Utility Commission Docket No. UE 374, Order No. 20-473 at 137 (December 18, 2020).

[99] *In the Matter of PacifiCorp, dba Pacific Power, Request for a General Revision,* Oregon Public Utility Commission Docket No. UE 399 et al., Order no. 22-491, App C at 11:17-18 (December 16, 2022).

[100] Meredith, Exh. RMM-12 at 33:15-16.

89 Meredith argues that since the proposed rate change is lower for Highly Impacted Communities and Low-Income Customers when compared to all other customers, this structure is equitable.[101]

90 Meredith otherwise opposes the recommendations made by other parties and recommends the Commission accept the proposals as stated in Direct Testimony since none of the parties provided compelling testimony to change its view on the issue.[102]

91 Medina further details methods in which the Company promotes equity in other filings outside of this proceeding. Medina states that Staff has a "narrower view of the Company's equity-related requirements. PacifiCorp considers equitable actions or modifications to its operations that were not explicitly proposed within this case to be relevant."[103] Medina asserts the Company has taken a broader interpretation of the Commission's guidance and does not believe it should wait for approval in a subsequent rate case to implement equitable endeavors. Medina notes, however, the Company will continue to work in consultation with The Energy Project in the LIAC.[104]

Settlement and Supporting Testimony

92 The Settlement contains several terms directly related to both equity and low-income customer issues, noted in detail above.[105] The Settling Parties submit that the Settlement terms address equity in the context of the proposed MYRP and provide steps "to further the consideration of equity in future rate case filings."[106]

93 In Joint Testimony, McVee explains, among other points, that the Settlement provides flexibility should the Commission establish more specific guidance in the future and that the Settlement addresses the Company's concerns as a multi-state utility.[107] McVee submits that the Company's commitment to work with its EAG and LIAG on the LIBA program and language access plan are consistent with procedural justice.[108]

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[101] *Id.* at 33:17-18 and 34:1-5.

[102] Meredith, Exh. RMM-12T at 23:13-18 and 46:19-23.

[103] Medina, Exh. CMM-2T at 1:19-20 and 2:1.

[104] *Id.* at 16:13-14.

[105] *See supra* section XX.

[106] Joint Testimony, Exh. JT-1T at 19:11-13.

[107] *Id.* at 22:3-18.

[108] *Id.* at 22:21-23:7.

94 Staff witness McGuire notes that the Settlement includes two of Staff's three recommendations regarding equity.[109] McGuire notes the difficult questions that the Commission may need to address in the future regarding the application of equity standards to system-wide investments for this multi-state utility,[110] but explains that requiring a DEA for Washington-situs assigned investments is a substantial improvement from current practice and will set the Company up for success in this area.[111]

95 TEP witness Stokes notes that the Settlement provides for a "robust equity review of disconnection policies"[112] and that, overall, the Settlement resolves many of the issues raised in TEP's response testimony, such as enhancing the LIBA and creating a language access plan.[113]

96 NWEC witness McCloy likewise supports the Settlement. She observes that "generational equity should be at the forefront of the Commission's mind with regard to all of Washington's investor-owned utilities' ownership of coal generation assets."[114] McCloy explains that the Settlement's "removal of Colstrip related capital costs from the revenue requirement, and the establishment of a Coal-fired facilities tracker is an acknowledgement of this generational equity concern" and consistent with Commission orders for other utilities.[115]

97 In its Brief, Public Counsel argues that the Settlement should be rejected because what it finds are inequitable impacts of the proposed rate increase and the proposal to increase the basic charge for single family home customers.[116] Public Counsel's arguments are discussed in more detail below.

98 ***Commission Determination.*** While the Commission has concerns with the Company's limited presentation on equity issues in its direct filing, the Settlement incorporates a number of recommendations from the non-Company parties. It sufficiently considers and shows progress on equity issues and should be accepted as consistent with the public interest.

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[109] *Id.* at 26:8.

[110] *Id.* 27:16-28:5.

[111] *Id.*

[112] *Id.* at 32:7-8.

[113] *Id.* at 30:9-12.

[114] *Id.* at 36:21-23.

[115] *Id.* at 37:3-7.

[116] Public Counsel Settlement Brief pp. 12, 21.

99 This is the first rate case filed by the Company since the enactment of RCW 80.28.425, which allows the Commission to consider several factors when determining whether the proposed tariff revision is in the public interest. These include environmental health impacts, greenhouse gas emission reductions, health and safety concerns, economic development, and equity to the extent such factors affect rates, services, and practices of an electric company.[117]

100 The Commission has provided further guidance on equity in a previous Commission order, [118] and by its adoption of the principles of equity identified by the Washington State Office of Equity.[119] The Commission has emphasized that to "ensure the Commission's decisions do not continue to contribute to the ongoing systemic harms, we must apply an equity lens in all public interest considerations going forward."[120]

101 The Commission intends to provide further guidance for regulated companies and other interested parties in pending Docket A-230217. Some of the concerns raised by the parties, such as the application of equity standards to multi-state utilities, are more appropriately resolved in that general docket.

102 Despite Public Counsel's arguments in this proceeding, the Settlement includes a number of provisions that address equity-related concerns and that warrant accepting the Settlement as reasonable and consistent with the public interest at this time.

103 As PacifiCorp correctly observes, the Settlement includes two of Staff's three recommendations with regards to equity.[121] The Settlement adopts Staff witness Brewer's recommendations regarding developing a distributional equity analysis.[122] It also requires the Company to develop benefits and costs related to equity for use in its transmission and distribution capital planning.[123] As the parties engage in these collaborative discussions around assessing capital projects situs-assigned to Washington, we remind the parties that energy justice is focused in significant part on "ensuring that individuals

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[117] RCW 80.28.425(1).

[118] *E.g.*, *WUTC v. Cascade Natural Gas Corporation*, Docket UG-210755, Order 09, ¶ 55 (August 23, 2022) (2021 Cascade GRC Order).

[119] RCW 43.06D.020(3)(a).

[120] 2021 Cascade GRC Order ¶ 55. State law defines "equity lens" as providing consideration to those characteristics for which groups of people have been historically, and are currently, marginalized to evaluate the equitable impacts of an agency's policy. See RCW 43.06D.010(4). See also RCW 49.60.030.

[121] PacifiCorp Settlement Brief ¶ 23.

[122] *Compare* Settlement ¶ 18 *with* MAB-1T at 25:11-12, 29:15-17.

[123] *Id.* at 29:15-17.

have access to energy that is *affordable*, safe, sustainable, and affords them the ability to sustain a decent lifestyle."[124] As energy prices become more volatile, it becomes ever more important for the Company to act prudently to avoid over-reliance on market purchases, to invest in sufficient resources that meet the requirements of the Clean Energy Transformation Act (CETA), and to pursue available funding to ensure customers benefit from the IRA/IIJA. By requiring a focus on energy justice in the Company's Washington-situs capital projects, as well as in capital planning, the Settlement addresses equity-related concerns.

104 The Settlement also adopts several of TEP's proposals from witness Stokes' response testimony, such as enhancing the LIBA, developing a language access plan, and enhancing the low-income weatherization program.[125] These terms all weigh in favor of approving the Settlement. To the extent the Commission has concerns with PacifiCorp tracking customer data by ZIP code, rather than census tract, we address this issue in Section II.D below.

105 We agree with Staff witness McGuire that equity and low-income customer issues are "separate matters with distinct legal requirements" that should not be conflated.[126] The equity "lens" is applied broadly to proposed tariff revisions,[127] including the selection of distributed energy resources, transmission planning, and other investments.[128] Low-income customer programs are subject to specific requirements,[129] separate and apart from an equity analysis.

106 Yet the legislature has also emphasized that equity requires consideration of how rate increases affect the most vulnerable. In the context of CEIP filings, ensuring all customers benefit from the clean energy transition includes the "equitable distribution of energy and nonenergy benefits and the reduction of burdens to vulnerable populations and highly impacted communities."[130] Energy Assistance should also be prioritized for customers with the highest energy burden.[131] These statutory provisions are not directly

[124] 2021 Cascade Order ¶ 56 (emphasis added).

[125] *Compare* Settlement ¶ 19-24 *with* Stokes, Exh. SNS-1T at 21:9-28:20.

[126] Joint Testimony, Exh. JT-1T at 28:6-8.

[127] *E.g.*, 2021 Cascade GRC Order ¶ 55.

[128] *See, e.g.*, *In the Matter of Puget Sound Energy's 2021 Clean Energy Implementation Plan*, Docket UE-210795 Order 08 ¶¶ 109, 304 (June 6, 2023).

[129] *E.g.*, RCW 80.28.425(2) (requiring minimum increases to low-income energy assistance programs following residential rate base increases).

[130] RCW 19.405.060(1)(c)(iii).

[131] *See generally* RCW 19.405.120.

at issue in this Order. But given this broader statutory context, the Commission's equity "lens" naturally focuses on energy assistance programs, disconnection practices, and other low-income customer issues. The fact that the Settlement in this case includes several terms focused on low-income customers deserves significant weight as we consider the Settlement.

107 Public Counsel argues that the Settlement fails to provide an equity analysis of the proposed rate increase and the proposed increase to the basic charge for single-family home customers.[132] However, the Commission's equity work is still in its early stages. We have addressed equity primarily in terms of capital planning, low-income customer issues, participatory funding, and the core tenets of energy justice. The Commission has not at this time required that proposed rate increases or changes in rate design must be accompanied by an equity analysis or else be subject to refund, as Public Counsel suggests. Nor have we provided guidance on what such an analysis might involve. Given the circumstances, we find it far more reasonable and consistent with the public interest to require the Company to work with the other parties to develop for its next general rate case an equity framework, a DEA, and a cost/benefit analysis, as the Settlement requires.[133] As Company witness McVee noted at the hearing, the Settlement establishes a process for the Company to incorporate equity more fully into its decision making going forward, and it is a recognition that there is more to do as a utility for addressing inequity in its service territory.[134] This strikes us as a more reasonable and practical approach given the evolving nature of these issues.

108 We also touch on Staff's request for additional guidance on equity in its Brief. Staff asks whether "prior efforts to improve equity are irrelevant when determining whether the rate plan meets the equity standard in RCW 80.28.425."[135] Staff also asks "if a utility is required by law to take action, and that action appears to improve equity, should that action be considered when determining whether the IOU has met the equity requirements for an MYRP?"[136] These are valid but difficult questions that go to the Company's burden to demonstrate that its general rate case is consistent with the expanded public interest standard set forth in RCW 80.28.425(1), the Commission's consideration of performance based regulation mechanisms under RCW 80.28.425(7), and the extent to which the Commission should consider equity questions in general rate cases as opposed to Clean Energy Implementation Plan (CEIP) filings. We agree that the expanded public

[132] Public Counsel Settlement Brief pp. 11-22.

[133] Settlement ¶ 18.

[134] McVee, TR 207:14-24, 208:16-18.

[135] Staff Settlement Brief ¶ 25.

[136] *Id.* ¶ 26.

interest standard under RCW 80.28.425(1) generally gives the Commission broad discretion to consider social, economic, and environmental impacts of general rate case filings, which include more than mere compliance with existing legal requirements, but this broad discretion should also be informed by careful deliberation in our pending equity docket, A-230217, and our performance based regulation docket, U-210590.

109 We caution that our analysis has focused on the Settlement, rather than the Company's presentation in its direct and rebuttal testimony. In the Company's direct testimony, the Company proposed a number of significant rate design changes, such as increasing the basic charge for single family residences but not for multi-family.[137] Although the Company noted it consulted with the EAG, the Company did not provide any transcripts of EAG meetings or copies of its presentations to the EAG on these issues.[138] Nor did the Company provide significant analysis of how this proposal might affect customers in its service area, which may include a large number of low-income customers in single family homes. The Company's other examples of equity-focused work, such as transmission work on Yakama land or building a new headquarters in Utah, seem to have only a tenuous connection to concepts of energy justice.[139] As an overall matter, the Company's direct filing did not demonstrate that the Company sought to incorporate principles of equity into its capital planning process in a way that meets our expectations.[140]

110 In its rebuttal filing, the Company provided a more detailed analysis of how its proposed rate design would impact named communities.[141] However, the Commission expects regulated companies to set forth their proposed tariff revisions and supporting justifications in direct testimony, rather than rebuttal testimony. We consider the Company's rebuttal analysis in this case given the emerging nature of these issues in Commission proceedings, but the Company should not rely on this consideration in the future.

111 In sum, the Settlement places the Company on an appropriate path to more fully evaluate equity issues in future filings. It also includes a number of terms enhancing the LIBA program and providing other benefits over time for low-income customers. We conclude

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[137] *E.g.*, Meredith, Exh. RMM-1T at 11:17-12:16.

[138] The Commission encourages the Company and the EAG members to reconsider whether providing transcripts of EAG meetings would be helpful to the regulatory process.

[139] *See* Brewer, Exh. MAB-1T at 16:3-9 (disputing the Company's claim that its work with the Yakama Tribe reflected the application of equity principles).

[140] *E.g.*, WAC 480-100-640.

[141] *See* Meredith, Exh. RMM-12 at 33:15-16.

that the Settlement sufficiently considers equity and that it is consistent with the public interest.

C. Whether the Settlement's proposed Rate of Return is consistent with the Public Interest

112 A utility's cost of capital has three main components: capital structure, return on equity, and cost of debt. Taking all these factors into account, it is possible to describe the utility's overall rate of return (ROR), also known as the weighted average cost of capital (WACC). In this case, the Settling Parties "agree to an overall rate of return of 7.29 percent" and that "the specific return on equity, cost of debt, and capital structure shall remain unspecified."[142] The Commission considers whether this ROR is consistent with the public interest and whether it results in fair, just, reasonable, and sufficient rates. We consider the Settlement together with the Supporting Testimony and all other relevant evidence in the record. Because the Settlement's overall ROR of 7.29 represents a negotiated compromise between the Settling Parties' positions, we turn to the Parties' prefiled testimony on each of the cost of capital components.

Direct Testimony

113 Company witness Ann E. Bulkley analyzes cost of capital using the Discounted Cash Flow (DCF), Capital Asset Pricing Model (CAPM), and other models with data through January 2023.[143] Bulkley's analysis results in a recommended range of 9.90 percent to 11.0 percent, and a proposed Return on Equity (ROE) determination of 10.3 percent.[144]

114 Bulkley argues the Company's request is warranted based on current and expected levels of elevated inflation and interest rates that have resulted in utility dividend yields being less appealing to investors than government bonds. Bulkley highlights changes in interest rates and inflation since the Commission last authorized the ROE at 9.5 percent. At the decision date for the 2020 rate case, interest rates (30-year T bond yield) were 1.64 percent with inflation at 1.28 percent, and as of January 2023 were 3.70 and 6.42 percent respectively.[145] Additionally, Bulkley testifies that Moody's recently downgraded the outlook for the utility industry to negative.[146]

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[142] Settlement ¶ 10.

[143] Bulkley, Exh. AEB-1Tr at 4:21-23.

[144] *Id.* at 3:13-17.

[145] *Id.* at 18:15-19, 19 at Figure 4.

[146] *Id.* at 6:6-20.

115 Bulkley contends the Company's risk profile may be adversely affected by regulatory decisions that impact cash flows from delayed or under recovery of necessary investments, a ROE below other companies with comparable risk, and regulatory mechanisms that are less favorable than those of other jurisdictions (*i.e.*, the current PCAM structure at issue in this proceeding).[147]

116 Bulkley selects 17 proxy companies using the following parameters:

- consistently pay quarterly cash dividends;
- investment grade long-term issuer ratings;
- analysis by more than one utility industry analyst;
- positive long-term earnings growth rates by more than one analyst;
- own regulated generation assets;
- derive at least 40 percent of generation from owned generation;
- derive at least 60 percent of total operating income from regulated operating income;
- derive at least 60 percent of total regulated operating income from regulated electric operating income; and
- not party to an acquisition transaction during the analytic period.[148]

117 Generally, the DCF model attempts to estimate the opportunity cost of shareholders, or the cost of equity, based on the expected growth in dividends for a utility. This model requires one to calculate a dividend yield and growth rate. Bulkley uses the current annualized dividend and average closing stock prices of the proxy group over a 30-, 90-, and 180-day period as of January 31, 2023, to determine the dividend yield component. Bulkley relies on long-term growth rates from Zacks Investment Research, Thompson First Call, and Value Line.[149] These inputs result in a ROE range (based on averages) between 8.17 and 10.45 percent.[150] However, Bulkley argues that utility stocks are expected to underperform with long-term government bonds anticipated to exceed utility yields, thereby indicating that the Commission should consider multiple models in its

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[147] *Id.* at 48:12-16, 54:17-55:5, 58:1-4, 67:10-14.

[148] Bulkley, Exh. AEB-1Tr at 27:10-24. Bulkley excludes Hawaiian Industries, Inc., due to their geographical isolation. Bulkley, Exh. No. AEB-1Tr at 28:2-20.

[149] *Id.* at 34:2-35:15. Bulkley adjusted the annualized dividend yield to account for the varying quarters the proxy companies increase their quarterly dividends.

[150] *Id.* at 36, Figure 7.