



STATE OF CALIFORNIA

GAVIN NEWSOM, Governor

PUBLIC UTILITIES COMMISSION

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TO PARTIES OF RECORD IN APPLICATION 23-06-017:

This is the proposed decision of Administrative Law Judge David Van Dyken. Until and unless the Commission hears the item and votes to approve it, the proposed decision has no legal effect. This item may be heard, at the earliest, at the Commission's August 28, 2025, Business Meeting. To confirm when the item will be heard, please see the Business Meeting agenda, which is posted on the Commission's website 10 days before each Business Meeting.

Parties of record may file comments on the proposed decision as provided in Rule 14.3 of the Commission's Rules of Practice and Procedure.

The Commission may hold a Ratesetting Deliberative Meeting to consider this item in closed session in advance of the Business Meeting at which the item will be heard. In such event, notice of the Ratesetting Deliberative Meeting will appear in the Daily Calendar, which is posted on the Commission's website. If a Ratesetting Deliberative Meeting is scheduled, *ex parte* communications are prohibited pursuant to Rule 8.2(c)(4).

/s/ MICHELLE COOKE

Michelle Cooke

Chief Administrative Law Judge

MLC: hma

Attachment

Decision **PROPOSED DECISION OF ALJ VAN DYKEN (Mailed 7/25/25)**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of PacifiCorp (U901E) for
Authority to Establish the Wildfire
Expense Memorandum Account

Application 23-06-017

**DECISION AUTHORIZING PACIFICORP d/b/a PACIFIC POWER TO
ESTABLISH THE WILDFIRE EXPENSE MEMORANDUM ACCOUNT**

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Appendix A - Joint Offer of Revised Stipulations

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DECISION AUTHORIZING PACIFICORP d/b/a PACIFIC POWER TO ESTABLISH THE WILDFIRE EXPENSE MEMORANDUM ACCOUNT**Summary**

This decision grants PacifiCorp d/b/a Pacific Power's (PacifiCorp) request to establish a Wildfire Expense Memorandum Account (WEMA) to track incremental unreimbursed wildfire liability-related costs. The WEMA shall be composed of two sub-accounts. The first is the "WEMA Incremental Insurance Cost Sub-Account" that will track PacifiCorp's California share of incremental costs of liability insurance premiums for costs incurred on or after June 21, 2023, and will remain open indefinitely. The second is the "WEMA Wildfire Liabilities and Wildfire Legal Expenses Sub-Account" that will track expenses incurred on or after June 21, 2023, associated with wildfires ignited between June 21, 2020, through June 30, 2026. Additionally, the WEMA shall also utilize Customer Cost Mitigation measures.

The WEMA will only track wildfire liability-related costs for damage occurring within California, regardless of the state in which the fire ignited. This decision does not grant PacifiCorp any rate recovery for wildfire liability-related costs. Any such rate recovery requires express authorization from the Commission in a separate proceeding.

This proceeding is closed.

1. Background**1.1. Factual Background**

PacifiCorp d/b/a Pacific Power (PacifiCorp) is a public utility organized and existing under the laws of the State of Oregon. It is a multi-jurisdictional utility engaged in the business of generating, transmitting, and distributing electricity in the States of California, Idaho, Oregon, Utah, Washington, and

Wyoming.¹ In Northern California, PacifiCorp serves the Counties of Del Norte, Modoc, Shasta, and Siskiyou, either wholly or partially. PacifiCorp's California service territory comprises less than two percent of PacifiCorp's customer base. PacifiCorp's operation in California is subject to the jurisdiction of the Commission.

PacifiCorp does not seek authorization to recover any costs. Instead, PacifiCorp only requests authority to track incremental insurance costs and incremental unreimbursed wildfire liability-related costs in a Wildfire Expense Memorandum Account (WEMA) so that PacifiCorp may seek Commission review and cost-recovery approval in the future. Additionally, the proposed tariff states that insurance proceeds, as well as any payments received from third parties, will be credited to the WEMA as they are received.

1.2. Procedural Background

On June 21, 2023, PacifiCorp filed Application (A.) 23-06-017, requesting authorization from the Commission to establish a WEMA. On July 31, 2023, the Public Advocates Office at the California Public Utilities Commission (Cal Advocates) filed a protest to the Application. On August 2, 2023, PacifiCorp filed a reply to Cal Advocates' protest.

On August 3, 2023, the Administrative Law Judge (ALJ) issued a ruling requesting additional information from PacifiCorp. A prehearing conference (PHC) was held on August 3, 2023, to address the issues of law and fact, determine the need for hearing, set the schedule for resolving the matter, and address other matters as necessary.

¹ PacifiCorp's principal place of business is 825 NE Multnomah Street, Portland, Oregon 97232.

On August 15, 2023, the Assigned Commissioner's Scoping Memo and Ruling (Scoping Memo) was issued. The Scoping Memo directed the parties to meet-and-confer with the goal of finding mutually agreeable resolutions to the concerns raised in Cal Advocates' protest. The Scoping Memo additionally set a September 15, 2023 status conference, which was continued until September 29, 2023, at PacifiCorp's request. A second status conference was held on November 6, 2023. PacifiCorp also requested an expedited schedule in its application, which was denied in the Scoping Memo.

On December 4, 2023, the parties concluded a productive meet-and-confer process that culminated in a Joint Motion to Enter a Stipulation into the Record (Stipulation). The Stipulation resolved Cal Advocates' concerns raised in its protest, and the parties represented that no disputed issues remained.

On January 16, 2024, the ALJ issued a ruling to both parties requesting additional information related to questions about the stipulated WEMA tariff language. On January 29, 2024, the joint parties issued a response to the ruling clarifying the intent of the stipulated WEMA tariff language.

On February 14, 2024, a proposed decision was filed and mailed for party comment. On March 5, 2024, PacifiCorp filed opening comments on the proposed decision and on March 11, 2024, Cal Advocates filed reply comments.

1.2.1. Stay of the Proceeding

On March 13, 2024, PacifiCorp filed a Motion for Stay of the proceeding. PacifiCorp received feedback from the regulatory bodies and stakeholders in a number of its other states calling into question how wildfire liability costs for fires that occur in other states would be allocated under the 2020

Inter-Jurisdictional Allocation Protocol (2020 Protocol).² PacifiCorp requested the Commission not approve the WEMA until agreement on cost-allocation protocols could be reached in other jurisdictions.

On April 10, 2024, the ALJ issued a ruling granting PacifiCorp's Motion for Stay of the proceeding. Additionally, the ruling orders PacifiCorp, starting May 1, 2024, to serve to the service list a status report due on the first business day of each month.

On December 19, 2024, Decision (D.) 24-12-061 was issued extending the statutory deadline in this proceeding from December 21, 2024, to September 30, 2025.

On April 11, 2025, PacifiCorp and Cal Advocates filed a Joint Motion to Enter A Revised Stipulation into the Record (Revised Stipulation) and revised the WEMA tariff language. On April 18, 2025, PacificCorp filed an opening brief. On May 16, 2025, Cal Advocates filed a reply brief. The Revised Stipulation initially also anticipated the parties to file concurrent rebuttal briefs on June 6, 2025, but on May 25, 2025, PacifiCorp notified the service list that the parties had conferred and determined that neither party intended to submit rebuttal briefs.

1.3. Submission Date

This matter was submitted on May 16, 2025, upon filing of Cal Advocates' reply brief.

2. Jurisdiction

PacifiCorp filed A.23-06-017 under Public Utilities (Pub. Util.) Code Section 701 and the Commission's Rules of Practice and Procedure (Rules) 2.1. The application also references prior Commission decisions, orders, and

² See Section 4 of this Decision for information regarding the 2020 Protocol.

resolutions, including but not limited to Resolution E-4311 (interim WEMA authorization for San Diego Gas & Electric Company (SDG&E)), Decision (D.) 12-12-029 (continuation of WEMA for SDG&E), D.18-06-029 (authorization of WEMA for Pacific Gas and Electric Company (PG&E)), D.18-11-051 (authorization of WEMA for Southern California Edison Company (SCE)), and D.20-11-034 (authorization of WEMA for Liberty Utilities).

3. Issues Before the Commission

On August 15, 2023, the assigned Commissioner issued a Scoping Memo setting the following issues to be considered in this proceeding:

1. Whether the Commission should grant PacifiCorp authority to establish a WEMA, starting from the file date of the Application, for the purpose to track unreimbursed wildfire related costs.
2. Whether the Application complies with applicable laws and Commission Rules including, but not limited to Pub. Util. Code Section 701 and Rule 2.1.
3. Whether the Application complies with applicable prior decisions, orders, and resolutions of the Commission.
4. The amount of incremental, reimbursable wildfire liability-related costs that would be initially allocated to a WEMA in California.
5. The process by which costs would be allocated to the proposed WEMA, given that PacifiCorp serves ratepayers across numerous jurisdictions.
6. Whether the Commission should permit PacifiCorp to track costs that are incurred due to wildfires that occurred prior to the filing of this Application.
7. Whether this application raises any issues under the Commission's Environmental and Social Justice Action Plan.

4. 2020 Inter-Jurisdictional Allocation Protocol

To maximize operational efficiency and capture economies of scale, PacifiCorp operates on a total-system basis, meaning the entirety of its assets and infrastructure are used to serve customers in all six states. In recognition of PacifiCorp's total system operations, the utility regulatory commissions in each state have long approved interjurisdictional cost allocation protocols. There have been multiple updates to the protocols over the years. The Commission approved the most current 2020 Protocol in D.23-12-016, which is currently in effect in all of PacifiCorp's states.³

Under the 2020 Protocol, PacifiCorp allocates costs on either a system or situs basis, depending on use. System-wide costs, such as costs associated with generation and transmission assets, costs for shared corporate services, and liability costs are allocated among the customers of all six states. System-wide costs are allocated using the System Overhead (SO) factor, which is based on a ratio of gross plant allocated to each state. California's SO factor is approximately 2.25 percent, which means California ratepayers are allocated approximately 2.25 percent of SO-allocated costs that arise in any of PacifiCorp's six states.

PacifiCorp's WEMA proposal originally contemplated using the SO factor to allocate all WEMA-eligible wildfire costs for insurance, legal expenses, and liabilities. In early 2024, however, PacifiCorp began seeing a shift in state policies with respect to these costs and liabilities away from the 2020 Protocol and toward allocation methodologies specific to the states' individual legal environments.⁴ Following that shift, PacifiCorp requested that the Commission

³ See PacifiCorp Opening Brief, filed 4/18/2025, at 1.

⁴ See, e.g., Utah § 54-24-301 et seq. (establishing the Utah fire fund and setting limits of wildfire-related damage claims against an electrical corporation); Wyoming Code § 37-3-401 et seq.

Footnote continued on next page.

stay implementation of the original WEMA to allow PacifiCorp time to work with stakeholders and regulators to identify new cost-allocation methodologies.

5. WEMA

5.1. Need for WEMA

Like all electric utilities in California, PacifiCorp faces heightened wildfire risk. This increased risk does not stop at the California border. PacifiCorp serves customers in other western states, which have been significantly impacted by the west-wide drought and increasingly large wildfires. As a multi-jurisdictional utility, PacifiCorp's customers have the potential to experience cost impacts related to wildfires that occur in the other states that PacifiCorp serves.

PacifiCorp's California service territory includes significant areas of Tier 2 and some areas of Tier 3 increased wildfire risk areas,⁵ as well as heavily forested regions that have been impacted by increasing rates of tree mortality. PacifiCorp's California service territory has been impacted by wildfires in recent years. If, in the future, PacifiCorp's equipment or facilities are found to be the cause of any wildfires, PacifiCorp says it could face substantial additional costs, including strict liability costs arising from the application of inverse condemnation.⁶

PacifiCorp believes it is appropriate for the Commission to authorize a WEMA to allow PacifiCorp to track its incremental unreimbursed wildfire liability-related costs. Additionally, the proposed tariff states that insurance

(establishing requirements for electric utility wildfire mitigation plans and setting requirements under which civil actions may be brought against utilities); Idaho Senate Bill 1183 (2025) (establishing a standard of care in state law under which electric companies would not be held liable for wildfire-related damages if they have followed their state utilities commission-approved wildfire mitigation plan).

⁵ CPUC Fire-Threat Map (August 19, 2021).

⁶ See A.17-07-011 at 3-4, 7-9; A.18-04-001 at 4-6; A.20-11-034 at 3-4.

proceeds, as well as any payments received from third parties, will be credited to the WEMA as they are received. PacifiCorp does not seek to prejudge the reasonableness or the appropriateness of cost recovery of the expenses recorded in the WEMA. Rather, PacifiCorp seeks only to create a regulatory mechanism to record incremental wildfire liability-related costs, thereby preserving its ability to seek Commission review and recovery of those costs through a subsequent application without implicating retroactive ratemaking concerns.

5.2. Effective Date of WEMA

PacifiCorp's application states that it is imperative that PacifiCorp establish a WEMA now as the company is subject to a number of lawsuits relating to wildfires that occurred since 2020. Those suits have the potential to impose significant wildfire liability-related costs on PacifiCorp.

Such a condition is not unique to PacifiCorp's WEMA application. In A.17-07-011 and the resulting D.18-06-029 granting PG&E's WEMA, PG&E specifically sought a WEMA intending to record costs related to the 2015 Butte Fire.⁷ In A.18-04-001 and the subsequent D.18-11-051 granting SCE's WEMA, SCE specifically sought a WEMA intending to record costs arising from the December 2017 Thomas Fire and subsequent mudslides and flooding. Both of these events occurred prior to PG&E and SCE filing their WEMA applications. PacifiCorp says the requested effective date does not constitute retroactive ratemaking.⁸

Pub. Util. Code Section 1731(a) states that the Commission "may set the effective date of an order or decision before the date of issuance of the order or

⁷ See D.18-06-029 at 1.

⁸ See D.18-06-029 at 11-15; D.18-11-051 at 8; D.20-11-034 at 4-5.

decision.” Further, in D.18-06-029, D.18-11-051, and D.20-11-034, the Commission established the date of filing of the application as the effective date for PG&E, SCE, and Liberty’s WEMAs, respectively. The Commission may order PacifiCorp to discontinue the WEMA if changes in law or facts significantly reduce PacifiCorp’s risk of unreimbursed wildfire-related costs.

Given the statutory authority and the decisions cited above, granting PacifiCorp’s WEMA effective as of the date of the application’s filing does not constitute retroactive ratemaking. Therefore, the effective date of PacifiCorp’s WEMA is June 21, 2023.

5.3. WEMA Sub-Accounts

PacifiCorp’s initial proposed tariff language for the WEMA was modeled on the language approved by the Commission for PG&E, SCE, SDG&E, and Liberty. The revised WEMA tariff language in the Revised Stipulation was amended to suit PacifiCorp’s unique situation as a multi-state electric utility. PacifiCorp’s revised WEMA tariff proposes two sub-accounts.

First is the “WEMA Incremental Insurance Cost Sub-Account” which tracks PacifiCorp’s California share of incremental costs of liability insurance premiums. This sub-account would track the actual cost of liability insurance premiums, less the amount of revenue authorized for this purpose (on a forecasted basis) in the most recent general rate case for each state. Costs in the sub-account would be allocated to California utilizing the SO factor in the 2020 Protocol. This sub-account can record incremental insurance costs incurred on or after June 21, 2023, and would remain open indefinitely.

Second is the “WEMA Wildfire Liabilities and Wildfire Legal Expenses Sub-Account” which would track expenses incurred on or after June 21, 2023 associated with wildfires ignited between June 21, 2020 through June 30, 2026.

This sub-account would track the following types of expenses: (1) Wildfire-related liabilities; (2) Outside legal costs incurred in the defense or resolution of wildfire claims; (3) Insurance proceeds; and (4) Financing costs associated with these items.

5.4. Revised Stipulation

The joint motion to enter the Revised Stipulation into the record addresses nine categories of information:⁹ (1) the currently approved cost allocation methodology and mechanics for all PacifiCorp Costs; (2) the currently approved allocation methodology for liability expenses; (3) the manner in which PacifiCorp obtains and allocates costs related to liability insurance; (4) the potential scope of wildfire liability costs related to the 2020-2022 wildfires; (5) the proposal to establish two WEMA sub-accounts to record different types of costs; (6) the proposed treatment of incremental insurance costs; (7) the proposed treatment of wildfire liabilities and wildfire legal expenses; (8) additional policy stipulations regarding the recording and potential recovery of WEMA costs; and (9) stipulations regarding future changes to PacifiCorp's inter-jurisdictional cost-allocation methodology.

In the Revised Stipulation, PacifiCorp and Cal Advocates reached agreement on all aspects of a revised WEMA proposal except the appropriate cost-allocation methodology for wildfire legal expenses and liability costs. However, the parties have identified three options and ask the Commission to select the option it finds most reasonable for this WEMA. The three options are described in Section 5.5 of this Decision. The Revised Stipulation provides that the WEMA proposed in this proceeding will only apply to costs associated with

⁹ See Joint Motion to Enter Revised Stipulation into the Record, at 4-5 filed April 11, 2025.

wildfires igniting during the period from June 21, 2020, through June 30, 2026.¹⁰ PacifiCorp states that it hopes to have information about the new cost-allocation agreements among its other states by the time PacifiCorp seeks approval of the successor WEMA.¹¹

We find the Revised Stipulation is reasonable in light of the record. PacifiCorp's initial proposed tariff language for the WEMA was modeled on the language approved by the Commission for PG&E, SCE, SDG&E, and Liberty. The revised WEMA tariff language in the Revised Stipulation was amended to suit PacifiCorp's unique situation as a multi-state electric utility.

The Revised Stipulation is consistent with the law. The Revised Stipulation proposes a WEMA that is consistent with Pub. Util. Code Sections 701 and 1731(a), as well as prior Commission decisions authorizing WEMAs for other California electric utilities.¹²

The Revised Stipulation is also in the public interest because it provides a cost allocation methodology that is fair to California customers. It reduces the potential scope of liability costs that may be allocated to California customers.

Appendix A is PacifiCorp's and Cal Advocates' Revised Stipulation. Appendix B is PacifiCorp's WEMA tariff language, per the Revised Stipulation.

¹⁰ See Revised Stipulation, Section VII.a.

¹¹ See PacifiCorp Opening Brief, filed 4/18/2025, at 3.

¹² Resolution E-4311 (interim WEMA authorization for SDG&E, D.12-12-029 (continuation of WEMA for SDG&E), D.18-06-029 (authorization of WEMA for PG&E, D.18-11-051 (authorization of WEMA for SCE, and D.20-11-034 (authorization of WEMA for Liberty Utilities).

5.5. Cost Allocation Options

5.5.1. Option 1 – Situs Treatment Based on Damage Location

This option allocates to California customers the legal liabilities associated with wildfire damage occurring within California's borders. The damage-location methodology would place a limit on California customers' potential cost responsibility for fires that begin in California and cross the border into Oregon, or fires that start in Oregon and cross into California. In other words, utilizing the damage-location methodology, California customers would only be liable for fire damage occurring within California, regardless of the state in which the fire ignited. The damage-location methodology is also consistent with California's inverse condemnation legal framework, as well as established memorandum account treatment for the large electric utilities' wildfire costs.

5.5.1.1. Inverse Condemnation

Inverse condemnation in California is a constitutional principle that allows a property owner to hold a public or government entity strictly liable for the physical injury or damage that may have been caused by that entity's public improvement.¹³ Most recently, the Courts have allowed inverse condemnation claims against Commission-regulated investor-owned utilities.¹⁴ While it is not within our purview to render determinations regarding whether inverse condemnation should be applied in assessing damage claims,¹⁵ the Commission

¹³ See *San Diego Gas & Electric Co. v. Superior Court*, 13 Cal.4th 893, 940 (1996).

¹⁴ *Barham v. Southern California Edison Company*, 74 Cal.App.4th 744, 752 (1999).

¹⁵ See D.18-07-025 (Order Denying Rehearing of D.17-11-033, Application of San Diego Gas & Electric Company (U902E) for Authorization to Recover Costs Related to the 2007 Southern California Wildfires Recorded in the Wildfire Expense Memorandum Account (WEMA); D.10-12-053 pointed out that SDG&E has a heightened risk profile because of its excessive wildfire risk exposure, San Diego County's inadequate firefighting resources, and its legal liability under inverse condemnation.

has recognized inverse condemnation as the source of uncertainty tending to support the authorization of WEMAs.¹⁶ The extent of inverse condemnation liability to privately owned utilities is less clear beyond California's border. Neighboring states have their own legal frameworks for assessing liability related to wildfire events.

5.5.1.2. Cost Allocation for the WEMA-Eligible Fires

There are two groups of fires currently eligible for cost recordation in the proposed WEMA: the 2020 Labor Day Fires and the 2022 McKinney Fire. The Labor Day Fires comprise the Slater Fire, which ignited in California and crossed into Oregon, and at least seven additional fires that ignited and remained in Oregon. The Slater Fire has been linked to PacifiCorp's electric infrastructure. The McKinney Fire ignited in California and remained within the borders of Siskiyou County. The cause of the McKinney Fire was still under investigation at the time of PacifiCorp's opening brief.^{17,18}

Under the damage-location situs methodology, the legal expenses and liability costs associated with the California footprint of the Slater Fire and the McKinney Fire would be recorded in the WEMA. The remaining costs for the Oregon footprint of the Slater Fire and for all other claims relating to the 2020 Labor Day Fires in Oregon that are not within California's footprint would not be recorded and California customers would not bear any of those costs.

¹⁶ See, e.g., A.24-10-002 at 78 (stating that inverse condemnation was a heavy influence on SCE's approach to resolving claims arising from the Woolsey Fire); A.17-07-011 at 3-4, 7-9 (explaining the doctrine of inverse condemnation and the increased liability exposure for PG&E).

¹⁷ See PacifiCorp Opening Brief at 5.

¹⁸ PacifiCorp's Opening Brief was filed on April 18, 2025.

5.5.1.3. Offsets to Recorded WEMA Costs

It is established that WEMAs include provisions for offsets to recorded costs, which reduce the overall dollar amount that may be approved for cost recovery.¹⁹ PacifiCorp's proposed WEMA tariff specifies that a credit entry will be made in amounts equal to PacifiCorp's insurance recoveries or amounts received from third parties relating to wildfire costs.²⁰ As a general principle, situs costs recorded in the WEMA are only those that exceed insurance recoveries. As of December 31, 2024, PacifiCorp expected \$534 million of insurance recoveries related to the Labor Day and McKinney Fires, with a \$95 million sublimit available for California wildfire claims. Because the McKinney Fire was the only large wildfire in the 2021-2022 insurance policy year, PacifiCorp expects that a larger portion of the associated costs will be covered by insurance up to the California sublimit.²¹ These insurance recoveries will reduce the overall costs eligible for potential recovery.

PacifiCorp and Cal Advocates, in their respective briefs, recommend that the Commission select Option 1 for cost-recovery. The Commission agrees with PacifiCorp and Cal Advocates to utilize Option 1.

¹⁹ See, e.g., PG&E WEMA, Electric Preliminary Statement Part HL, Section HL. 5.b (providing for a credit entry for reimbursement by insurance companies and third parties); SCE WEMA, Electric Preliminary Statement Part N, Section N.52.c. (providing for credit entries for amounts received from insurance companies or third parties, amounts received through FERC authorized transmission rates for wildfire cost recovery, and amounts recovered through SCE's Z-factor mechanism.)

²⁰ Proposed WEMA Tariff, Section 3.C.3.

²¹ Revised Stipulation, Section IV.

5.5.2. Option 2 – Situs Treatment Based on Ignition Location

This option allocates to California customers the legal expenses and liability costs associated with wildfires caused by PacifiCorp equipment located in California, regardless of whether the fire crosses the border into neighboring states. In other words, utilizing this methodology, California customers would be liable for fire damage in both California and Oregon if the fire ignited in California. Conversely, California customers would not be liable for any fire damage for fires that ignited in Oregon, even if fire crosses the state border and causes damage in California.

It is not clear that Commission jurisdiction would allow recovery of liability costs in California for damage occurring in a neighboring state. It is also not clear that regulatory agencies in Oregon would support liability costs for damage occurring in California. With respect to PacifiCorp's service area, its individual states have not reached agreement on a cost-allocation methodology for wildfire liability costs to replace the SO factor in the 2020 Protocol. The shift toward state law-specific liability allocation methodologies, combined with the absence of a defined process to apportion liability from multi-state fires, indicates that ignition-location situs treatment could lead to unequal cost-recovery policies if one state agrees to assume the costs of fires that crossed into a neighboring state while the other state does not agree to the same framework for its own customers.

The Commission agrees with PacifiCorp that Option 2 should not be utilized.

5.5.3. Option 3 – Treatment as System-Allocated “Injuries and Damages”

The system-allocated methodology preserves the status quo. Wildfire liability expenses are currently recorded in Federal Energy Regulatory Commission (FERC) Account 925 (Injuries and Damages) and allocated using the SO factor to each of PacifiCorp’s six states, as provided in the 2020 Protocol. The SO factor calculation allocates approximately 2.25 percent of System Overhead costs to California customers regardless of where the costs originated. This means that California customers are responsible for approximately 2.25 percent of liability costs for fires that occur in California or in any of PacifiCorp’s other states. This methodology limits the potential costs to California customers for California wildfires, but it also assigns cost responsibility for fires that never enter the state.

The SO factor cannot be relied on to equitably allocate wildfire liability and legal expense costs in California. If California maintains the SO factor for the WEMA, California customers would likely be responsible for a portion of wildfire liability costs in other states, while customers in those states would not be responsible for a reciprocal share of the California fires and related damages. Additionally, in light of the legislative actions in PacifiCorp’s other states to limit liability for wildfire claims, it is unclear the extent to which PacifiCorp’s other states would be responsible for their portion of wildfire liability costs.²² Not only

²² See, SB0224 (Utah Code 54-24-303 caps non-economic damages at \$100,000 for a person not physically injured from a fire and \$450,000 for a person that was physically injured); Idaho Code Section 6-1603 caps non-economic damages at \$250,000; Oregon ORS 477.089 provides that “in a civil action for property damage caused by a wildfire, the recoverable damages are: (a) The amount of economic and property damages, if the wildfire did not occur as the result of recklessness, gross negligence, willfulness, or malice; or (b) Twice the amount of economic and property damages, if the wildfire occurred as the result of recklessness, gross negligence, willfulness or malice.”)

would this create inequities between the customers in PacifiCorp's states, but it would also put PacifiCorp at risk of having no opportunity to seek recovery of significant wildfire-related costs that are eligible to be recovered under established ratemaking principles.²³

The Commission agrees with PacifiCorp that Option 3 should not be utilized.

5.6. Customer Cost Mitigation Measures

PacifiCorp also proposes three customer cost mitigation measures that will reduce the potential amount of WEMA costs that can be recovered from customers.

5.6.1. Deduction of Full Insurance Coverage Amounts

PacifiCorp proposes to discount the total wildfire liability and legal expense costs by the full state sublimit insurance coverage amount available under the applicable year in which the fire occurred, regardless of the amounts actually received from insurers.

5.6.2. Sixty Percent Recovery Cap

PacifiCorp proposes to cap any request for approval to recover wildfire liability and legal expense costs at 60 percent of the total recorded dollar amounts. PacifiCorp claims this proposal is consistent with the Commission's recent approval of a settlement between SCE and Cal Advocates on cost-recovery

²³ See, e.g., D.25-01-042 at 20 (noting that SCE's WEMA costs were incurred in connection with its provision of electric service); D.20-11-034 at 5 (stating that Liberty's application for a WEMA aligns with prior Commission decisions granting authority to track wildfire liability-related costs); D.18-11-051 at 7 (stating that the wildfire liability imposed by inverse condemnation justified the approval of an ongoing WEMA for SCE); D.18-06-029 at 1, 19 (approving PG&E's WEMA to record incremental unreimbursed wildfire liability costs).

for the 2017 Thomas Fire and the resulting 2018 Montecito debris flow. Cal Advocates briefly adds that it supports the 60 percent recovery cap.²⁴

5.6.3. Securitization or Amortization

PacifiCorp proposes to seek approval to securitize wildfire liability expense amounts or to request to amortize them over a period of no shorter than five years at the actual cost of long-term debt, extendable if interest rates are favorable.

5.6.4. Discussion

The Commission does not adopt the three proposed Customer Cost Mitigation Measures in this decision. These measures are not directly related to the establishment of the WEMA. It is more appropriate to consider these measures when PacifiCorp seeks rate recovery from the Commission in a separate proceeding for expenses recorded in the WEMA.

5.7. Party Recommendations

PacifiCorp and Cal Advocates both recommend that the Commission approve Option 1: the Situs Treatment Based on Damage Location methodology.^{25 26} The damage-location situs methodology will limit customer cost responsibility to the damage that occurs within California's borders. When combined with the proposed customer cost mitigation measures, PacifiCorp believes the damage-location situs methodology will provide the most equitable framework for allocation of wildfire costs.

²⁴ Reply of the Public Advocates Office to PacifiCorp's Opening Brief Regarding Its Requested Wildfire Expense Memorandum Account at 2.

²⁵ See Opening Comment of PacifiCorp at 13.

²⁶ See Cal Advocates Reply Brief, filed 5/16/2025, at 3.

Cal Advocates points out that under this methodology, California ratepayers will be responsible, at most, for the damage that the 2020 Slater Fire and 2022 McKinney inflicted within California.²⁷

The Commission agrees with the parties and adopts Option 1: the Situs Treatment Based on Damage Location methodology. The WEMA tariff language shall be amended to utilize this option.

6. Summary of Public Comment

Rule 1.18 allows any member of the public to submit written comment in any Commission proceeding using the “Public Comment” tab of the online Docket Card for that proceeding on the Commission’s website. Rule 1.18(b) requires that relevant written comment submitted in a proceeding be summarized in the final decision issued in that proceeding.

There are no public comments on the Docket Card for this proceeding.

7. Environmental and Social Justice

No environmental and social justice issues were identified as affected by the establishment of a WEMA.

8. Conclusion

This decision grants PacifiCorp’s request to establish a WEMA to track incremental unreimbursed wildfire liability-related costs. Insurance proceeds, as well as any payments received from third parties, will be credited to the WEMA as they are received. The WEMA shall be composed of two sub-accounts. The first is the “WEMA Incremental Insurance Cost Sub-Account” that will track PacifiCorp’s California share of incremental costs of liability insurance premiums for costs incurred on or after June 21, 2023, and will remain open indefinitely.

²⁷ Opening Brief at 8-9. The same methodology would include potential damages for any wildfires that ignite through June 30, 2026. Offer of Stipulations at 7.

The second is the “WEMA Wildfire Liabilities and Wildfire Legal Expenses Sub-Account” that will track costs incurred on or after June 21, 2023 associated with expenses regarding wildfires igniting between June 21, 2020, through June 30, 2026.

The WEMA shall utilize the “Situs Treatment Based on Damage Location” methodology as described in Section 5.5.1 of this decision. The WEMA tariff language shall be amended to utilize this option.

This decision does not grant PacifiCorp any rate recovery for wildfire liability-related costs. Any such rate recovery requires express authorization from the Commission in a separate proceeding. The Commission may order PacifiCorp to discontinue the WEMA if changes in law or facts significantly reduce PacifiCorp’s risk of unreimbursed wildfire-related costs.

9. Procedural Matters

This decision affirms all rulings made by the assigned ALJ and assigned Commissioner in this proceeding. All motions not ruled on previously or in this decision are deemed denied.

9.1. Monthly Status Reports

The ALJ ruling issued on April 10, 2024, requires PacifiCorp to serve to the service list a status report due on the first business day of each month. This decision affirms that the monthly report requirement is no longer in effect.

9.2. Motion to Enter Stipulation into the Record

On April 11, 2025, PacifiCorp and Cal Advocates filed a joint motion to enter the Revised Stipulation into the record. The Revised Stipulation resolves the remaining issues in the proceeding after the March 13, 2024, Motion for Stay of the Proceeding, except for the cost-allocation methodology. The Revised

Stipulation provides three different options and requests that the Commission select the most appropriate one. This motion is granted.

9.3. Motions for Confidentiality

On December 4, 2023, PacifiCorp filed a motion for confidential treatment of certain information contained in Exhibit 5 of the joint stipulation.

On April 11, 2025, PacifiCorp filed another motion for confidential treatment of the sensitive information contained in the attachments to the Revised Stipulation. The sensitive information includes the following:

- PacifiCorp settlement payments through September 30, 2024, for the 2020 Labor Day Fires and the 2022 McKinney Fire.
- PacifiCorp's expected insurance recoveries for the 2020 Labor Day Fires and the 2022 McKinney Fire.
- PacifiCorp's confidential responses to Cal Advocates' data requests, sets 2 and 3, Responses 2.1, 2.1 Revised, 2.2, 2.3, 2.5, 2.6, and 3.1.

On June 26, 2025, PacifiCorp filed a Supplement to its two Motions for Confidential Treatment elaborating on the need for confidentiality. PacifiCorp asserts that information addressed in both motions directly relates to ongoing wildfire litigation and settlement claims. No opposition to the motions was filed.

PacifiCorp's motions for confidential filing are granted for a period of three years after the date the order in this decision is effective. During this three-year period, this information shall not be publicly disclosed except on further Commission order or ALJ ruling. If PacifiCorp believes that it is necessary for this information to remain under seal for longer than three years, PacifiCorp may file a new motion showing good cause for extending this order by no later than 30 days before the expiration of this order.

Accordingly, the requests to place these materials under seal pursuant to Rule 11.5 are granted as set forth in the Ordering Paragraphs below.

10. Comments on Proposed Decision

The proposed decision of ALJ David R. Van Dyken in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on _____, and reply comments were filed on _____ by _____.

11. Assignment of Proceeding

John Reynolds is the assigned Commissioner and David R. Van Dyken is the assigned ALJ in this proceeding.

Findings of Fact

1. PacifiCorp has incurred costs related to the 2020 Labor Day Fires and the 2022 McKinney Fire.
2. PacifiCorp has incurred or is likely to incur costs related to subsequent wildfire events.
3. The 2020 Protocol approved in D.23-12-016 sets California's SO factor at approximately 2.25 percent.
4. PacifiCorp's California service territory consists of areas with elevated or extreme wildfire risks.
5. PacifiCorp may face substantial incremental wildfire-related costs that may not be recoverable in its authorized General Rate Case revenue requirement or through its insurance coverage.
6. Like PacifiCorp's application, the WEMAs for PG&E and SCE also track expenses related to wildfire events that occurred prior to the filing of their WEMA applications.

7. Expenses related to wildfire events that occurred on or prior to June 21, 2020 are not eligible for the WEMA.

8. PacifiCorp's WEMA proposal originally contemplated using the SO factor to allocate all WEMA-eligible wildfire costs for insurance, legal expenses, and liabilities.

9. In early 2024, PacifiCorp began seeing a shift in state policies with respect to these costs and liabilities away from the 2020 Protocol and system allocation and toward allocation methodologies specific to the states' individual legal environments.

10. On March 13, 2024, PacifiCorp filed a Motion for Stay of the proceeding.

11. On April 10, 2024, the assigned ALJ issued a ruling granting PacifiCorp's Motion for Stay.

12. The April 10, 2024 ALJ ruling requires PacificCorp to serve a monthly status report.

13. The revised WEMA tariff language in the Revised Stipulation was amended to suit PacifiCorp's unique situation as a multi-state electric utility.

14. PacifiCorp's revised WEMA tariff proposes two sub-accounts as described in Section 5.3 of this decision. They are:

(a) "WEMA Incremental Insurance Cost Sub-Account."

(b) "WEMA Wildfire Liabilities and Wildfire Legal Expenses Sub-Account."

15. PacifiCorp and Cal Advocates reached agreement on all aspects of a revised WEMA proposal except the appropriate cost-allocation methodology for wildfire legal expenses and liability costs.

16. PacifiCorp and Cal Advocates have identified three options for cost-allocation methodology and ask the Commission to select the option it finds most reasonable for the WEMA. The options are:

- (a) Situs Treatment Based on Damage Location.
- (b) Situs Treatment Based on Ignition Location.
- (c) Treatment as System-Allocated “Injuries and Damages.”

17. Both PacifiCorp and Cal Advocates recommend the Situs Treatment Based on Damage Location methodology.

18. PacifiCorp also proposes three Customer Cost Mitigation Measures. They are:

- (a) Deduction of full Insurance coverage amounts.
- (b) Cap wildfire liability and legal expenses to 60 percent of the recorded dollar amounts.
- (c) Securitization and amortization of liability expense amounts.

19. No environmental and social justice issues were identified as affected by the establishment of a WEMA.

Conclusions of Law

1. The Commission may make the WEMA effective as of the date of PacifiCorp’s application.
2. The costs recorded in PacifiCorp’s WEMA should be segregated by cost type and specific wildfire event, with notice to the Commission of each new event or cost type being tracked.
3. Only incremental costs should be recorded in the WEMA.
4. Insurance proceeds, as well as any payments received from third parties, will be credited to the WEMA as they are received.

5. PacifiCorp may seek to recover the costs tracked in the WEMA in separate rate recovery proceedings.

6. PacifiCorp's WEMA tariff language should be consistent with this decision, including utilization of the Situs Treatment Based on Damage Location methodology.

7. The Commission may order PacifiCorp to discontinue the WEMA if changes in law or facts significantly reduce PacifiCorp's risk of unreimbursed wildfire-related costs.

8. This decision does not grant PacifiCorp any rate recovery for wildfire liability-related costs.

9. The requirement for PacifiCorp to serve a monthly status report is no longer in effect.

O R D E R

IT IS ORDERED that:

1. PacifiCorp d/b/a Pacific Power is authorized to establish a Wildfire Expense Memorandum Account effective June 21, 2023, to track wildfire-related expenses incurred on and after June 21, 2023 that are related to wildfire events that occurred on or after June 21, 2020.

2. The Wildfire Expense Memorandum Account (WEMA) shall consist of two sub-accounts.

(a) The "WEMA Incremental Insurance Cost Sub-Account," which shall record incremental insurance costs incurred on or after June 21, 2023, and remain open indefinitely.

(b) The "WEMA Wildfire Liabilities and Wildfire Legal Expenses Sub-Account," which shall track expenses incurred on or after June 21, 2023

associated with wildfires ignited between June 21, 2020 through June 30, 2026.

3. PacifiCorp d/b/a Pacific Power shall file its tariff implementing the Wildfire Expense Memorandum Account via a Tier 1 Advice Letter no later than 60 days from the date of this decision.

4. The Wildfire Expense Memorandum Account (WEMA) tariff language shall specify that the allocation methodology will utilize the “Situs Treatment Based on Damage Location” methodology. Accordingly, the tariff shall state, *“Wildfire liability and legal expenses will be allocated to each state based on the location of the claimed damages. The WEMA liabilities and legal expenses account will track only the expenses associated with claims located in California.”*

5. The Wildfire Expense Memorandum Account tariff language shall specify that only incremental costs may be recorded in the account, and that entries in the account are segregated by cost type or specific wildfire event.

6. PacifiCorp d/b/a Pacific Power shall file a Tier 1 Advice Letter prior to adding any new specific wildfire event or new wildfire liability-related cost type that is not described in the initial Wildfire Expense Memorandum Account tariff.

7. The joint motion to enter the revised stipulation into the record filed on April 11, 2025, by PacifiCorp d/b/a Pacific Power and the Public Advocates Office at the California Public Utilities Commission is granted.

8. The motion filed by PacifiCorp d/b/a Pacific Power (PacifiCorp) on April 11, 2025, for confidential treatment of the sensitive information contained in the attachments to the April 11, 2025, joint motion to enter the revised stipulation into the record is granted. The sensitive information includes the following:

- PacifiCorp settlement payments through September 30, 2024, for the 2020 Labor Day Fires and the 2022 McKinney Fire.
- PacifiCorp's expected insurance recoveries for the 2020 Labor Fires and the 2022 McKinney Fire.
- PacifiCorp's confidential responses to the Public Advocates Office at the California Public Utilities Commission's data requests, sets 2 and 3, Responses 2.1, 2.1 Revised, 2.2, 2.3, 2.5, 2.6, and 3.1.

These materials shall be placed under seal for a period of three years from the date this order is effective. During this three-year period, this information shall not be publicly disclosed except on further Commission order or Administrative Law Judge ruling. If PacifiCorp believes that it is necessary for this information to remain under seal for longer than three years, PacifiCorp may file a new motion showing good cause for extending this order by no later than 30 days before the expiration of this order.

9. PacifiCorp d/b/a Pacific Power shall no longer be required to serve a monthly status report.

10. Application 23-06-017 is closed.

This order is effective today.

Dated _____, at San Francisco, California.