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September 14, 2020

VIA ELECTRONIC FILING

Attention: Filing Center
Public Utility Commission of Oregon
201 High Street SE, Suite 100
P.O. Box 1088
Salem, Oregon 97308-1088

Re: Docket UM 2032 – Investigation into the Treatment of Network Upgrade Costs for Qualifying Facilities

Attention Filing Center:

Attached for filing in the above-captioned docket is the Joint Utilities' Response to Northwest and Intermountain Power Producers Coalition, the Renewable Energy Coalition, and the Community Renewable Energy Association's Motion to Strike.

Please contact this office with any questions.

Sincerely,

Alisha Till
Paralegal

Attachment

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 2032

In the Matter of

PUBLIC UTILITY COMMISSION OF
OREGON,

Investigation into the Treatment of Network
Upgrade Costs for Qualifying Facilities.

**JOINT UTILITIES' RESPONSE TO
MOTION TO STRIKE**

1 In accordance with OAR 860-001-420(4), Idaho Power Company, Portland General
2 Electric Company, and PacifiCorp, dba Pacific Power (together, the Joint Utilities) submit this
3 response in opposition to the Motion to Strike filed by Northwest and Intermountain Power
4 Producers Coalition, the Renewable Energy Coalition, and the Community Renewable Energy
5 Association (together referred to as the Interconnection Customer Coalition) on September 2,
6 2020.

7 The purpose of this docket is to investigate the Public Utility Commission of Oregon's
8 (Commission) interconnection service requirements and cost-allocation policies for state-
9 jurisdictional qualifying facility (QF) interconnections. The Joint Utilities seek to retain the
10 Commission's current policies, which provide critical protections that ensure utility customers do
11 not unreasonably bear the cost of Network Upgrades resulting from a QF's unilateral siting
12 decision, in violation of PURPA's customer indifference requirement. A change in Commission
13 policy would shift potentially substantial costs onto utility customers, would remove a critical
14 incentive for efficient QF siting, and is entirely unnecessary to encourage QF development.

1 To provide context for their testimony and recommendations that the Commission’s current
2 policies be retained, the Joint Utilities’ Opening Testimony provides a thorough overview of the
3 current interconnection framework under the Commission’s and the Federal Energy Regulatory
4 Commission’s (FERC) orders and rules. The Joint Utilities also explain how they apply PURPA’s
5 requirements when interconnecting with and purchasing from QFs and explain why a change in
6 policy would shift costs to utility customers.

7 The Interconnection Customer Coalition claims that much of the Joint Utilities’ testimony
8 contains impermissible legal analysis and moves to strike testimony that falls into the following
9 broad categories:

- 10 • Testimony describing the current interconnection and transmission frameworks in
11 Oregon and at FERC, and the policies underlying those frameworks—both PURPA
12 and non-PURPA.¹ (The majority of the testimony that the Interconnection
13 Customer Coalition seeks to strike is in this category.)
- 14 • Testimony describing how each transmission provider operates its transmission
15 system to accommodate QF generation and the practical implications of PURPA’s
16 requirements.²
- 17 • Testimony describing how interconnection costs are currently charged to
18 interconnection customers and how changes to that cost-recovery framework would

¹ Joint Utilities/100, Vail-Bremer-Foster-Larson-Ellsworth/5:16-18; 7:5-10, 8:15-9:1, 9:9-12, 9:17-10:2, 10:7-10, 11:6-11, 13 n.17, 13:14-14:5, 18:14-17, 23:19-24:1, 24:4-5, 24:8-26:4, 27:23-28:2 & n.33, 28:18-22, 30:15-17, 31:1-32:7, 34:9-17, 35:3-4; Joint Utilities/200, Wilding-Macfarlane-Williams/5:7-5:12; 6:13-18, 7 n.6, 8:8-17, 9:1-6 & n.9, 9:17-10:6, 10:14-11:1, 11:4-11; 13:21.

² Joint Utilities/100, Vail-Bremer-Foster-Larson-Ellsworth/5:21-6:2, 15:9-13, 19:1-4, 9-12; Joint Utilities/200, Wilding-Macfarlane-Williams/7:17-8:7.

1 shift costs onto retail customers (i.e., how customers would not be indifferent—as
2 a factual matter—under a different cost allocation policy).³

- 3 • Testimony providing policy recommendations to the Commission.⁴
- 4 • Testimony describing the witnesses’ understanding of the scope of this docket.⁵

5 In each instance, the Joint Utilities’ testimony appropriately describes the witnesses’
6 understanding of the applicable requirements that they implement on a day-to-day basis in their
7 interconnection and regulatory roles. This information provides necessary context for their factual
8 testimony. The witnesses also present policy recommendations to the Commission in this policy
9 investigation. The Joint Utilities’ testimony does not include impermissible legal analysis of the
10 type that has previously been stricken from testimony. Therefore, the Motion to Strike is without
11 merit and must be denied.

I. LEGAL STANDARD

12 It is well-established that the purpose of testimony is to provide relevant evidence, whereas
13 legal argument should be reserved for briefing rather than included in the testimony of non-
14 lawyers.⁶ However, this does not mean that non-lawyer witnesses may not discuss their
15 understanding of the legal or regulatory framework to provide context for their testimony. To
16 determine whether testimony is impermissible legal analysis, “it is important to distinguish

³ Joint Utilities/100, Vail-Bremer-Foster-Larson-Ellsworth/6:5, 15:9-13 & n.20, 22:9-15, 33:23-34:7, 34:9-17; Joint Utilities/200, Wilding-Macfarlane-Williams/4:5-10, 5:13-6:1 & n.3, 6:6-9, 12 n.13.

⁴ Joint Utilities/100, Vail-Bremer-Foster-Larson-Ellsworth/29:10-12, 35:7-10; Joint Utilities/200, Wilding-Macfarlane-Williams/3:12-15, 3:17-18, 4:11-5:1; 7:3-12, 8:19-21; 9:7-11, 10:8, 10:10-13, 11:12-16, 11:19-20, 11:22-12:5, 12:20-13:7, 13:23-14:8.

⁵ Joint Utilities/100, Vail-Bremer-Foster-Larson-Ellsworth/12:19-20, 13:4-5, 12-13.

⁶ OAR 860-001-0450(1)(a); *In the Matter of Oregon Pub. Util. Comm’n Staff Requesting the Comm’n Direct PacifiCorp to File Tariffs Establishing Automatic Adjustment Clauses Under the Terms of SB 408*, Docket UE 177, Order No. 08-176 at 3 (Mar. 20, 2008).

1 between the witness’ *understanding* of the law and the witness’ *interpretation and application* of
2 the law to the facts purported to be offered in testimony.”⁷ Testimony describing a witness’s
3 understanding of the law “relates to the witness’ state of mind in developing testimony (which may
4 have some limited evidentiary value and be admissible in an administrative proceeding).”⁸ On the
5 other hand, testimony describing a witness’s interpretation and application of the law to the facts
6 “would constitute legal analysis or argument and be inadmissible”⁹

II. ARGUMENT

7 The Joint Utilities’ testimony discusses, at a high-level, key elements of the existing
8 interconnection regulatory framework to set the stage for this docket examining the Commission’s
9 current QF interconnection policies. The testimony does not contain the witnesses’ interpretation
10 or application of the law to facts, and therefore does not constitute impermissible legal analysis.
11 Instead, this testimony conveys the witnesses’ understanding of the basic regulatory framework
12 governing these interconnection policies, thereby providing a foundation for their testimony about
13 how the Joint Utilities implement the current requirements and for their recommendation that the
14 Commission retain its current policies to protect customers.

15 The Joint Utilities’ witnesses are qualified to provide testimony addressing the QF
16 interconnection framework and to make policy recommendations to the Commission.¹⁰ The

⁷ *Blue Marmot V LLC, et al. v. Portland Gen. Elec. Co.*, Docket UM 1829, ALJ Ruling at 3 (Dec. 13, 2017) (emphasis in original).

⁸ Docket UM 1829, ALJ Ruling at 3.

⁹ Docket UM 1829, ALJ Ruling at 3.

¹⁰ The Interconnection Customer Coalition appears to question the Joint Utilities’ witnesses’ qualifications to provide the testimony at issue simply because the witnesses are not lawyers. Motion to Strike at 5, 10. However, the witnesses are experts in their respective fields and are therefore perfectly qualified to provide the testimony that they filed.

1 transmission witnesses are the personnel at each utility responsible for managing and
2 implementing the interconnection process on a daily basis in compliance with the applicable
3 regulatory requirements. For example, the job description for Mr. Kris Bremer’s role as Director
4 of Generation Interconnection and Transmission Project Management at PacifiCorp states that one
5 of his basic responsibilities is to “[e]nsure compliance with federal, state, or local regulations.”
6 The transmission witnesses explain their understanding of the requirements they implement to
7 provide critical context for their factual testimony explaining how each utility manages the
8 interconnection process, performs its studies, and recovers the costs of interconnecting QFs to its
9 system. Their testimony provides their expert opinions regarding how costs would shift based on
10 a factual description of the applicable processes and requirements. Similarly, the Joint Utilities’
11 policy witnesses are qualified to provide policy recommendations to the Commission based on
12 their experience and understanding of PURPA’s regulatory framework. The witnesses’ testimony
13 is consistent with their roles and responsibilities and plays a crucial role in developing the record
14 necessary for the Commission to reach a decision that is supported by substantial evidence.

15 **A. Testimony describing the current interconnection framework and process is**
16 **admissible.**

17 The purpose of this docket is to investigate whether the Commission’s current
18 interconnection cost-allocation policies for QFs should be modified.¹¹ To address this question
19 and provide necessary context for their policy recommendations, the Joint Utilities’ testimony
20 describes the witnesses’ understanding of the Commission’s and FERC’s current interconnection
21 frameworks, which are set forth in various statutes, rules, tariffs, and orders, and the rationale and

¹¹ Docket UM 2032, ALJ Ruling (May 22, 2020).

1 policy considerations that underpin each framework. The vast majority of the testimony that the
2 Interconnection Customer Coalition moves to strike from the record consists of this type of
3 testimony.

4 The Joint Utilities’ explanation of their understanding of the Commission’s and FERC’s
5 interconnection study and cost-allocation processes is not legal analysis that should be stricken.
6 The witnesses are neither providing a legal interpretation of the Commission’s rules or orders, nor
7 are they applying legal interpretations to facts.¹² For example, the Interconnection Customer
8 Coalition claims it is impermissible legal analysis to state, “Under the QF-LGIA, a QF is required
9 to pay for all Network Upgrades necessary to interconnect the QF to the host utility, unless the QF
10 can demonstrate that its Network Upgrades provide ‘quantifiable system-wide benefits.’”¹³
11 However, the testimony the Interconnection Customer Coalition objects to is a straightforward
12 restatement of a Commission order, which the testimony quotes and cites. And this testimony
13 describes a key element of the existing interconnection regulatory framework that a utility
14 transmission function employee responsible for interconnection-request processing and contract
15 administration must understand to do their job. Similarly, the Interconnection Customer Coalition
16 seeks to strike testimony stating that the QF-LGIP requires a QF to obtain Network Resource
17 Interconnection Service (NRIS)¹⁴—a fact that is apparent on the face of the QF-LGIP and requires
18 no legal interpretation or analysis. Again, the witnesses sponsoring the testimony must know that
19 the QF-LGIP requires NRIS to perform their basic job responsibilities. Thus, these and many other

¹² See Docket UM 1829, ALJ Ruling at 3.

¹³ Joint Utilities/100, Vail-Bremer-Foster-Larson-Ellsworth/8:15-9:1 (quoting and citing *In re Pub. Util. Comm’n of Oregon Investigation into Interconnection of PURPA Qualifying Facilities with Nameplate Capacity Larger than 20 Megawatts to a Pub. Utility’s Transmission or Distribution System*, Docket UM 1401, Order No. 10-132 at 3).

¹⁴ Joint Utilities/100, Vail-Bremer-Foster-Larson-Ellsworth/18:14-17.

1 straightforward factual statements of current Commission policy in the Joint Utilities’ testimony
2 are within the witnesses’ expertise, require no interpretation, and are not open to debate.

3 It is common for testimony in Commission proceedings to reference and discuss statutes,
4 rules, or Commission orders, to provide context for the factual and technical information
5 provided.¹⁵ Staff and stakeholders have taken this approach in the Commission’s prior PURPA
6 investigations.¹⁶ In fact, the Interconnection Customer Coalition concedes that witnesses
7 frequently reference statutes and prior Commission proceedings.¹⁷

8 Establishing the parties’ respective understandings of the regulatory context is particularly
9 important in a policy investigation like this one, in which the Commission is reviewing and
10 considering whether to revise its current policies. Here, the Joint Utilities’ understanding of the
11 Commission’s current policies are necessary to lay the groundwork for and explain their
12 recommendations that the Commission should affirm its current policies. Indeed, it is hard to
13 imagine how meaningful factual evidence could be developed to support the Joint Utilities’

¹⁵ See, e.g., *In the Matter of Pub. Util. Comm’n of Oregon Investigation into Qualifying Facility Contracting and Pricing*, Docket UM 1610, Joint QF Parties/100, Higgins/10-11 (May 22, 2015) (responding to the question “Please describe EPA’s proposed Section 111(d) rules.” by explaining intent of proposed rules, how the rules were developed, and what they require); Docket UM 1610, CREA/500, Skeahan/16 (May 22, 2015) (responding to the question “How do current Commission orders require the utilities to calculate the non-standard avoided cost rates in Oregon?” by quoting Order No. 07-360 and explaining the Commission’s determination).

¹⁶ See, e.g., Docket UM 1610, Staff/500, Andrus/36-39 (May 26, 2015) (describing at length PURPA, Oregon case law, and Commission precedent regarding formation of a legally enforceable obligation to support Staff’s recommendation that the Commission should change its rule); Docket UM 1610, CREA/500, Skeahan/5, 7-8 (May 22, 2015) (quoting and explaining Oregon RPS statute, the Commission’s administrative rules regarding ownership of renewable energy credit, and the Commission order adopting the rules); Docket UM 1610, Coalition/400, Lowe/8 (May 22, 2015) (responding to the question “Please describe your understanding of the substantive standards for setting avoided cost rates?” by summarizing “the Commission’s policies and obligations” related to avoided cost rates, prefaced with the statement “I am not a lawyer; however, I have worked in this industry my entire career and I am familiar with the Commission’s policies and obligations.”).

¹⁷ Motion to Strike at 6.

1 position if the testimony could not lay out Oregon’s current interconnection requirements, which
2 the Commission adopted with the expectation that the *utilities’ interconnection employees will*
3 *implement them*. To the extent the Interconnection Customer Coalition disagrees with the Joint
4 Utilities’ statements of current Commission policy, the Coalition is free to explain their own
5 understanding in testimony. However, their differing understanding does not mean that the Joint
6 Utilities’ recitation of current policy constitutes legal analysis that must be stricken.

7 **B. Testimony describing operational requirements and implications is admissible.**

8 The Interconnection Customer Coalition also moves to strike testimony explaining the
9 Joint Utilities’ understanding of the applicable operational requirements imposed by PURPA, how
10 each utility implements those requirements in actual operations, and how those requirements are
11 relevant to the policy questions in this case.¹⁸ For example, the transmission witnesses explain
12 their understanding that “FERC has held that a purchasing utility must deliver a QF’s power on
13 firm transmission without curtailment (except in emergency conditions).”¹⁹ The witnesses also
14 provide their understanding of a relevant FERC case where these operational requirements were
15 clarified and then explain how the operational considerations are factually relevant to the
16 interconnection policy issues raised in this case, including whether QFs should be required to
17 obtain NRIS.²⁰ None of this testimony constitutes legal analysis, as the Interconnection Customer
18 Coalition claims. Rather, this testimony describes factually how the utility makes transmission
19 arrangements and dispatches its resources based on the witnesses’ understanding of the applicable
20 regulatory requirements and the practical implications of those operational considerations. As a

¹⁸ See, e.g., Joint Utilities/100, Vail-Bremer-Foster-Larson-Ellsworth/19:1-4, 9-12.

¹⁹ Joint Utilities/100, Vail-Bremer-Foster-Larson-Ellsworth/19, 31-32.

²⁰ Joint Utilities/100, Vail-Bremer-Foster-Larson-Ellsworth/31.

1 practical matter, FERC and state policies on these issues are embodied in tariffs and business
2 practices that the Joint Utilities’ employees are expected to follow.

3 The Joint Utilities’ transmission witnesses also explain the types of facilities that are
4 identified as Network Upgrades during the interconnection study process and explain how those
5 facilities are factually the same as the types of facilities described in FERC’s definition of
6 interconnection costs.²¹ Making a factual comparison is not legal analysis. This testimony should
7 not be stricken.

8 **C. Testimony describing how the Commission’s current cost-allocation policies hold**
9 **customers indifferent is admissible.**

10 The Interconnection Customer Coalition seeks to strike testimony explaining that current
11 Commission policy incentivizes economically efficient QF development and holds customers
12 indifferent to QF interconnection costs.²² PURPA’s foundational customer-indifference and
13 mandatory-purchase requirements are undisputed and frequently the subject of testimony.²³ Here,
14 the Joint Utilities’ witnesses explain the customer-indifference requirement: “PURPA requires that
15 customers remain economically indifferent to the source of power the utility purchases by ensuring
16 the cost to the utility associated with purchasing energy and capacity from a QF does not exceed

²¹ Joint Utilities/100, Vail-Bremer-Foster-Larson-Ellsworth/28:18-22.

²² See, e.g., Joint Utilities/100, Vail-Bremer-Foster-Larson-Ellsworth/22, 33-34; Joint Utilities/200, Wilding-Macfarlane-Williams/5.

²³ See, e.g., Docket UM 1829, Blue Marmot/300, Moyer/6, 9-10 (revised filing Aug. 19, 2018) (testifying about a utility’s obligation to purchase QF output under PURPA and the application of exceptions to the mandatory-purchase obligation); *Madras PVI, LLC v. Portland Gen. Elec. Co.*, Docket UM 2009, PGE/600, Angell/14 (Feb. 18, 2020) (testifying to the witness’ opinion that the Commission’s current interconnection policies ensure customer indifference); Docket UM 1610, Staff/200, Bless/18 (“By considering the avoided and incurred integration costs separately, we assure that the correct integration charges are paid to the correct entities. Only by adhering consistently to this principle do we ensure the ratepayer indifference mandated by PURPA.”).

1 the cost it would incur if it were purchasing from some other source.”²⁴ They also explain that
2 when QFs pay for the costs of their interconnection and customers do not, then customers remain
3 indifferent, as a factual matter.²⁵ This testimony is not legal analysis.

4 Testimony setting out the customer-indifference requirement also provides necessary
5 context for the Joint Utilities’ testimony explaining how a change to Commission policies
6 regarding recovery of interconnection-related costs would shift costs from QFs to retail customers.
7 Because the Joint Utilities explain *how factually* such policy changes would shift costs,²⁶ this
8 testimony also is admissible evidence. If there were no evidence in the record describing how this
9 cost shifting would occur, there would be no basis for the Commission to conclude that any
10 potential change in policy would comply with PURPA’s legal requirements. To the extent that the
11 Interconnection Customer Coalition is concerned that the Joint Utilities’ testimony states that cost
12 shifting violates the customer indifference *standard*, the Joint Utilities’ agree to strike the word
13 “standard” from the testimony so there is no confusion over whether the testimony is applying the
14 law to the facts.

15 **D. Testimony providing policy recommendations is admissible.**

16 In generic QF policy investigations like this one, testimony regularly provides policy
17 recommendations to the Commission.²⁷ Yet the Interconnection Customer Coalition appears to
18 be taking the position that the Joint Utilities’ witnesses may not offer such recommendations

²⁴ Joint Utilities/200, Wilding-Macfarlane-Williams/5.

²⁵ Joint Utilities/200, Wilding-Macfarlane-Williams/6.

²⁶ Joint Utilities/100, Vail-Bremer-Foster-Larson-Ellsworth/33-34.

²⁷ See, e.g., Docket UM 1610, Staff/500, Andrus/36-37 (explaining how the Oregon Court of Appeals’ decision in *Snow Mountain Pine Co. v. Maudlin*, 84 Or App 590, 598-99 (1987) informed Staff’s policy recommendation with respect to when a legally enforceable obligation should be established under PURPA).

1 because they are not lawyers²⁸—apparently under the theory that policy recommendations
2 constitute inadmissible “legal policy analysis.”²⁹ But testimony explaining the witnesses’ views
3 regarding what the Commission’s policy should be and why is not impermissible legal analysis.
4 For example, the Interconnection Customer Coalition seeks to strike the policy witnesses’
5 statement that “a utility’s obligations under PURPA should not be understood to upend the utility’s
6 responsibility to prudently plan for and invest in cost-effective transmission and distribution
7 system upgrades, or the Commission’s responsibility to ensure that the rates customers pay are
8 fair, just, and reasonable.”³⁰ This is a policy recommendation—not a legal conclusion that must
9 be stricken. And as a practical matter, it would be extremely difficult to understand parties’
10 positions and efficiently develop a record for this policy investigation if Staff and stakeholders
11 were required to reserve their policy recommendations for the briefing stage.

12 **E. Testimony explaining the witnesses’ understanding of the scope of this docket is**
13 **admissible.**

14 The Interconnection Customer Coalition moves to strike testimony describing the
15 witnesses’ understanding of the scope of this docket,³¹ including the Joint Utilities’ statement that
16 they understand upgrades to the distribution system are not within the scope of this docket.³² Such
17 testimony is not legal analysis; it is simply a recitation of the witnesses’ understanding, based on
18 Commission orders and other information in the docket.

19 The witnesses’ understanding of the scope of the docket provides important context for the

²⁸ Motion to Strike at 5, 10.

²⁹ Motion to Strike at 11-14.

³⁰ Joint Utilities/200, Wilding-Macfarlane-Williams/13.

³¹ Motion to Strike at 10.

³² Joint Utilities/100, Vail-Bremer-Foster-Larson-Ellsworth/13.

1 witnesses to explain their understanding of the issues list and how it relates to the interconnection
2 processes that they oversee.³³ It also serves the very practical objective of explaining what topics
3 will be covered in the witnesses’ testimony and why. Importantly, the Joint Utilities were not
4 under the impression that the scope of the docket was in dispute; however, to the extent the parties
5 have different views of what subjects are at issue in this case, it is even more important that their
6 respective understandings be made clear in the record at the outset. If, as the Interconnection
7 Customer Coalition claims, testimony regarding a party’s understanding of the scope of a docket
8 were impermissible, then parties could finish developing the record and reach the briefing phase
9 before realizing that their understandings differed. This approach would be highly inefficient, and
10 is also unnecessary because testimony regarding the assumed scope of a docket is not legal
11 analysis.

12 **F. Admitting the testimony at issue will not overly complicate the case or alter the**
13 **procedural posture of this docket.**

14 The Interconnection Customer Coalition claims that if the subject testimony remains in the
15 record it will be forced to conduct discovery regarding the basis for the Joint Utilities’
16 understandings of Commission precedent, as conveyed in their testimony.³⁴ As an initial matter,
17 the witnesses’ testimony regarding how they understand and apply the Commission’s “quantifiable
18 system-wide benefit[]” test is a permissible statement of their understanding—not a “legal
19 opinion,” as the Interconnection Customer Coalition claims.³⁵ Moreover, the Interconnection
20 Customer Coalition has already served discovery regarding the basis for this testimony, and the

³³ Docket UM 1610, CREA/500, Skeahan/8-9 (responding to the question “Please explain your understanding of the disputed issue.”).

³⁴ Motion to Strike at 15.

³⁵ Motion to Strike at 15.

1 Joint Utilities are in the process of responding. Neither disagreement with the understanding
2 expressed in testimony, nor the need for discovery regarding the testimony, is a valid basis for
3 striking testimony from the record.

4 The Interconnection Customer Coalition’s argument that the testimony will complicate the
5 record is similarly unpersuasive.³⁶ As discussed above, removing the testimony from the record
6 would likely make the record—and the Joint Utilities’ positions—less clear, and would lead to an
7 incomplete record, which would hamper the efficient and complete resolution the issues in this
8 docket.

9 Finally, the Interconnection Customer Coalition suggests that the Joint Utilities’ testimony
10 demonstrates that the issues in this docket are legal in nature and therefore the docket should not
11 be a contested case.³⁷ These claims are belied by the Interconnection Customer Coalition’s
12 recently served discovery requests, many of which have no reference to the Joint Utilities’
13 testimony and instead seek a significant volume of detailed factual information regarding the
14 utilities’ past interconnections. The Joint Utilities understand that the Interconnection Customer
15 Coalition plans to use this information to develop factual arguments regarding why the
16 Commission’s policies are flawed and should be changed. This docket is appropriately a contested
17 case.

III. CONCLUSION

18 For the foregoing reasons, the Motion to Strike must be denied. The Joint Utilities’
19 testimony appropriately explains the witnesses’ understanding of the law, not their interpretation

³⁶ Motion to Strike at 16.

³⁷ Motion to Strike at 3, 16.

1 and application of the law to the facts. The testimony at issue is of the type commonly filed in
2 generic policy investigations and should remain in this docket in order to provide a clear and
3 comprehensive record on which the Commission can base its decision.

4 To the extent the Administrative Law Judge determines that any of the Joint Utilities'
5 testimony is analytical or interpretive in nature and should be stricken, the Joint Utilities
6 respectfully request the opportunity to revise the testimony to clarify that they are simply
7 explaining their understanding of the law.

Dated: September 14, 2020

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