

1 **MOTION**

2 Defendants PacifiCorp and Pacific Power (collectively, “PacifiCorp”) bring this
3 motion to reduce the punitive damages award at trial under ORS 31.730. This motion is
4 supported by the following memorandum of points and authorities, the attached declaration
5 of Allen Berreth (“Berreth Decl.”), the pleadings and papers on file in this case, and the
6 record in this action.

7 **MEMORANDUM OF POINTS AND AUTHORITIES**

8 **I. INTRODUCTION**

9 In 2018, PacifiCorp became the first utility in Oregon to create and develop a formal
10 wildfire mitigation plan. From the beginning, the vision was to implement enhanced safety
11 measures—which are costly and take time to roll out—throughout the entire state to reduce
12 the risk of wildfire ignitions associated with electrical equipment while still providing power
13 to customers across PacifiCorp’s often-rural service territory. As a starting point, PacifiCorp
14 initially focused its wildfire mitigation resources on what subject-matter-experts deemed to
15 be the highest fire risk geographic areas. These resources included both financial and capital
16 investments in new equipment, but also investments in community outreach and community
17 planning for novel initiatives like public safety power shutoff (or “PSPS”) events.

18 At the time that the Labor Day wind event struck, the wildfire mitigation program had
19 not yet been implemented across the entire state. Despite Plaintiffs’ repeated suggestions
20 that PacifiCorp simply should have had the foresight to shut off the power in the exact
21 locations where fires later occurred—none of which had been pre-identified as historically
22 risky areas—PacifiCorp’s witnesses uniformly testified that those actions would have been
23 neither safe nor reasonable at that stage in the evolution of the wildfire mitigation plan (and,
24 in the case of the Santiam Canyon, unilaterally turning off the power would not have been
25 safe or reasonable in light of the ongoing emergency situation and potential evacuation needs
26 in response to the pre-existing lightning-caused Beachie Creek Fire).

1 Today, PacifiCorp does have the capabilities to conduct targeted proactive power shut
2 offs anywhere in its service territory. And PacifiCorp has exercised those capabilities
3 multiple times since Labor Day 2020. Most recently, PacifiCorp conducted a largescale
4 PSPS event in September 2022 in some of the same geographic areas at issue in this case,
5 including the Santiam Canyon. That effort was made possible due to PacifiCorp's significant
6 post-2020 investments in wildfire mitigation across its entire service territory, both as
7 initially contemplated as part of the continuous improvement and development of the plan,
8 but also in response to the heightened urgency of necessary improvements following the
9 Labor Day 2020 fires.

10 Meanwhile, on June 14, the jury in this case rendered a punitive damages award of
11 approximately \$18 million to the 17 named plaintiffs. This award was based on the jury's
12 assessment of a punitive damages multiplier of 0.25 times compensatory damages across the
13 entire class. The exact punitive damages for the remaining class members will be based on
14 this same multiplier and therefore cannot be determined until after the conclusion of the
15 Phase II trials (which is when the exact number of class members and the exact
16 compensatory awards will become known), but any subsequent punitive damages award will
17 be on top of additional doubling of economic damages that Plaintiffs seek under ORS
18 477.089, as well as a potentially significant class-wide base compensatory damages award.

19 PacifiCorp now seeks to reduce the amount of the punitive damages award under both
20 ORS 31.730(2) and ORS 31.730(3). This request is made in the alternative to PacifiCorp's
21 currently pending omnibus post-trial brief seeking, among other things, to vacate the punitive
22 damages award and to request a new trial on punitive damages. As explained below, the
23 award should be reduced under ORS 31.730(2) because both the \$18 million punitive
24 damages award for the named plaintiffs and the potential total class-wide punitive damages
25 award based on the 0.25 times multiplier are outside of the range of damages that a rational
26 juror could award under the record as a whole. And the award should separately be reduced

1 under ORS 31.730(3) in light of the fulsome subsequent remedial measures that PacifiCorp
2 has implemented and invested in since Labor Day 2020.

3 II. LEGAL STANDARD

4 Under ORS 31.730(2), the Court “shall review” a punitive damages award “to
5 determine whether the award is within the range of damages that a rational juror would be
6 entitled to award based on the record as a whole, viewing the statutory and common-law
7 factors that allow an award of punitive damages for the specific type of claim at issue in the
8 proceeding.” ORS 31.730(2). Additionally, under ORS 31.730(3), the Court “may reduce
9 the amount of any judgment requiring the payment of punitive damages entered against the
10 defendant if the defendant establishes that the defendant has taken remedial measures that are
11 reasonable under the circumstances to prevent reoccurrence of the conduct that gave rise to
12 the claim for punitive damages.” ORS 31.730(3).

13 III. ARGUMENT

14 A. The Punitive Damages Award Should Be Reduced Under ORS 31.730(2)

15 If a jury awards punitive damages, the trial court “shall review the award to determine
16 whether the award is within the range of damages that a rational juror would be entitled to
17 award.” ORS 31.730(2). The Court’s review must be “based on the record as a whole,
18 viewing the statutory and common-law factors that allow an award of punitive damages.” *Id.*
19 ORS 31.730(2) does not contemplate that a party must bring a motion for the Court to
20 conduct this mandatory review of punitive damages. But out of an abundance of caution,
21 PacifiCorp moves to request that the Court do so.

22 For the same reasons stated in PacifiCorp’s omnibus post-trial brief, which explained
23 that Plaintiffs failed to produce sufficient evidence to support *any* award of punitive
24 damages, the record as a whole similarly does not support the amount of the jury’s award.
25 (See August 11, 2023 Omnibus Post-Trial Brief at 40-42.) For reference, the *Philip Morris*
26 punitive damages verdict reversed by the Supreme Court in 2007—then Oregon’s largest

1 ever—was \$79.5 million total. When “compensatory damages are substantial”—as they are
2 here—only a “lesser ratio” is acceptable. *State Farm Mut. Auto Ins. Co. v. Campbell*, 538
3 US 408, 425 (2003). While *State Farm* concluded the “outermost limit” of due process may
4 limit punitive damages to a 1:1 ratio in cases involving sizable compensatory damages, *id.*,
5 that does not mean the Court’s review is or should be limited to rubber-stamping any
6 punitive damages award within constitutional limits, nor is that the law. Instead, the Court
7 must consider the entire record and determine whether the 0.25 multiplier—and the
8 potentially significant class-wide award that could result depending on how many class
9 members there are and the amount of compensatory damages for each class member—for
10 both the named plaintiffs and the rest of the class is within the acceptable range, especially in
11 light of the potentially significant class-wide compensatory damages at stake. For the
12 reasons explained above, below, and in PacifiCorp’s post-trial motions, it is not.¹

13 **B. The Punitive Damages Award Should Be Reduced Under ORS 31.730(3)**

14 Aside from any reduction under ORS 31.730(2), PacifiCorp separately and
15 additionally requests that the Court reduce the punitive damages award under ORS 31.730(3)
16 in light of the significant and fulsome remedial wildfire mitigation measures that PacifiCorp
17 has taken since the Labor Day 2020 fires. Above all, a punitive damages award must be
18 “reasonable in its amount and rational in light of its purpose to punish what has occurred and

19 _____
20 ¹ PacifiCorp also incorporates its objections to the use of a class-wide punitive damages
21 multiplier at all, for the same reasons explained in PacifiCorp’s omnibus post-trial brief. (*See*
22 *August 11, 2023 Omnibus Post-Trial Brief at 69-70.*) Because class-wide punitive damages
23 have been assessed according to a multiplier, as opposed to any individualized harm inquiry,
24 there is no way to tell what the ultimate total class-wide punitive damages award will
25 ultimately be. As a result, this motion to reduce damages under ORS 31.730(2)—at least as it
26 pertains to the class-wide damages award—does not reference any specific class-wide
27 punitives damages number at this point because that total award will necessarily depend on
28 the number of class members and the amount of compensatory damages awarded to each
29 class member. At the same time, PacifiCorp does not wish to waive any objections to the
30 amount of the punitive damages multiplier and award under ORS 31.730(2), which is why
31 PacifiCorp brings this motion despite the still-uncertain class-wide punitive damages amount.
32 In any event, this further illustrates why the use of a class-wide punitive damages multiplier
33 is both unconstitutional and unwieldy.

1 to deter its repetition.” *Parrott v. Carr Chevrolet, Inc.*, 331 Or 537, 550 n9 (2001) (cleaned
2 up).² Here, PacifiCorp has improved (and continues to improve) nearly every aspect of its
3 wildfire mitigation program and emergency response practices. Plaintiffs’ central criticism
4 during the Phase I trial—that PacifiCorp lacked the granular situational awareness
5 information needed to support a proactive power shutoff in the four fire areas at issue—has
6 been *fully* addressed by the company since 2020. Today, PacifiCorp’s in-house meteorology
7 team relies on a vastly expanded universe of data inputs to generate not just weather forecasts
8 in general, but rather, weather forecasts specifically tailored to identifying potential fire risks
9 to highly precise portions of PacifiCorp’s equipment throughout its *entire* service territory.

10 What that means is that PacifiCorp now has the capability to effectuate a PSPS event
11 *anywhere* in its service territory, whether or not that area was historically identified as a
12 high-risk location. And PacifiCorp did exactly that in September 2022, proactively shutting
13 off power to some of the same locations at issue during this trial. The September 2022 PSPS
14 was made possible both because of the earlier groundwork laid with the creation of the
15 wildfire mitigation plan beginning in 2018, but also because of PacifiCorp’s continued
16 investment in advanced situational awareness technologies, equipment, and resources after
17 the fire. Meanwhile, PacifiCorp has also vastly increased its investments in measures like
18 enhanced system hardening and vegetation management.

19 ///

20

21 ² See also *State Farm Mut. Auto. Ins. Co. v. Campbell*, 538 US 408, 419-20 (2003) (reversing
22 punitive damages award because “a more modest punishment for this reprehensible conduct
23 could have satisfied the State's legitimate objectives, and the Utah courts should have gone
24 no further”); *Honeywell v. Sterling Furniture Co.*, 310 Or 206, 211, 797 P2d 1019 (1990)
25 (reversing punitive damages award because the jury based its award on an improper rationale
26 not related to the proper purpose of deterrence); *State ex rel. Young v. Crookham*, 290 Or 61,
71-72, 618 P2d 1268 (1980) (holding that “the issue in determining punitive damages is the
sufficiency of the deterrent effect of punitive damages on the defendant” (cleaned up));
Cooper v. Moschillo, 39 Or App 443, 446, 592 P2d 1034 (1979) (finding that a punitive
damages award may be reduced or avoided where defendant has demonstrated that
deterrence is no longer necessary because it has already been punished by another method).

1 As explained in PacifiCorp’s omnibus post-trial brief, there is no evidence to support
2 the finding of “I don’t care” needed to justify a punitive damages award in the first place.
3 But the fulsome investments that have been made in wildfire mitigation in the three years
4 since Labor Day 2020 only underscore the degree to which PacifiCorp’s employees care
5 about mitigating the risk of utility-caused wildfires, both before Labor Day 2020 and today.
6 Maintaining a significant class-wide punitive damages award (on top of an already
7 significant class-wide compensatory damages award) will only serve to derail and detract
8 from the progress that has already been made and the projects that are planned for the next
9 several years to serve all customers—which would undermine, not promote, the inherently
10 deterrent goals of punitive damages in the first place. For that reason, the class-wide punitive
11 damages award in this case should be reduced under ORS 31.730(3).

12 The clear and undisputed evidence of PacifiCorp’s post-fire wildfire mitigation
13 improvements—some of which was introduced at trial and some of which is being described
14 now through a witness declaration—is summarized below.³

15 ***Advancements in Situational Awareness Capabilities.*** First, PacifiCorp has
16 undertaken significant advancements in its situational awareness capabilities since Labor Day
17 2020. One of Plaintiffs’ criticisms at trial was that PacifiCorp did not have an in-house
18 meteorology team on Labor Day 2020. PacifiCorp now has an in-house meteorology team
19 consisting of five meteorologists and a data scientist, and the team is still growing. (Trial Tr.
20 9293:15-23, 9416:20-9417:1; DTX 8593 at 17.) In recognition of the central role that
21 weather forecasting plays in situational awareness during emergency events, the meteorology
22 team is housed within and reports up to the emergency management department. (Trial Tr.
23 9417:2-15.) The meteorology team employs a rotating on-duty and on-deck staffing

24

25 ³ The improvements described below are also reflected in PacifiCorp’s 2023 Oregon Wildfire
26 Mitigation Plan, which was filed with the Oregon Public Utilities Commission at the end of
2022. (See generally Berreth Decl., Ex. B.)

1 schedule, which means there is *always* at least one meteorologist (and at times the entire
2 team) available to consult with the rest of the emergency management team, including during
3 weekends and holidays. (Trial Tr. 9417:16-25.)

4 PacifiCorp witnesses explained at trial that on Labor Day 2020, the company did not
5 have granular enough weather information outside of the pre-identified highest fire risk areas
6 to support conducting a PSPS, especially when weighed against the significant and
7 meaningful risks of broad power shutoffs. Today, PacifiCorp’s in-house meteorology team
8 prepares daily weather forecasts covering PacifiCorp’s *entire* service territory that are
9 forward-looking over five to seven days. (Trial Tr. 9418:9-13, 9418:21-23; DTX 8593 at 17-
10 19.) On top of that, the in-house meteorology team also prepares a district-level report of
11 forecasted weather impacts on the electrical system called the “System Impacts Threat
12 Matrix.” (Trial Tr. 9418:14-17.) In short, PacifiCorp now has access to granular weather
13 information—down to the individual power line level—across its entire service territory.
14 (Trial Tr. 9424:9-12, 9426:6-9.)

15 PacifiCorp’s in-house meteorology team has been able to provide these more granular
16 and tailored forecast updates because of PacifiCorp’s significant post-fire investments in new
17 technologies and equipment. For example, PacifiCorp has expanded its network of
18 hyperlocal weather stations across its *entire* service territory, not just within pre-identified
19 highest risk areas. (Trial Tr. 9285:15-25, 9291:7-14, 9424:6-8.) By the end of 2022,
20 PacifiCorp had installed 115 weather stations across Oregon, with plans to bring that number
21 up to 162 by the end of 2023. (Trial Tr. 9295:11-19; DTX 8593 at 17.) In addition,
22 PacifiCorp employs portable weather stations that can be deployed to specific areas quickly
23 in the event that additional forecasting support is needed. (Trial Tr. 9424:20-9425:5.)

24 PacifiCorp’s in-house meteorology team has also developed and relies on a number of
25 novel modeling techniques, including a combination of weather forecast models, wildfire
26 models, and outage models. (Trial Tr. 9424:6-14.) The weather forecast model (also known

1 as the “Weather Research and Forecast Model” or “WRF”) is a high-resolution model that
2 provides a 96-hour forecast of weather conditions customized down to the individual power
3 line level, but also information about fuels and fire weather forecasts. (Trial Tr. 9425:17-23,
4 9426:10-18.) The weather forecast modeling available to PacifiCorp today is much more
5 granular than publicly available weather data, is provided with more lead time than publicly
6 available weather data, and includes more data outputs specifically relevant to wildfire risk
7 assessment like energy release components and fuel moistures. (Trial Tr. 9426:19-9427:7.)
8 In addition to the WRF modeling, PacifiCorp also relies on a wildfire modeling tool called
9 the “Fire Potential Index” (or “FPI”), which provides a way to quantify the potential risks
10 and consequences of fire ignitions for a given circuit at a given time. (Trial Tr. 9427:16-
11 9428:1.) As described at trial, the FPI modeling tool took years to develop and required
12 ingesting an enormous amount of both public and proprietary data across more than 300
13 billion individual calculations. (Trial Tr. 9428:2-21.) But the end result of that effort is that
14 PacifiCorp is now able to assess and model fire ignition risk for every circuit across its
15 service territory to help inform PSPS and operational decisions. (Trial Tr. 9428:22-24.)

16 Finally, PacifiCorp also utilizes field observers to physically go out into the field to
17 report back on on-the-ground conditions and system impacts. (Trial Tr. 9433:7-22.) For
18 example, in advance of a potential PSPS event, PacifiCorp will deploy field observers
19 strategically to areas of concern to report on the impact of the weather on vegetation in
20 relation to electrical infrastructure. (Trial Tr. 9433:7-22.)

21 ***Expansion of PSPS Outside of Highest Risk Areas.*** As a result of PacifiCorp’s
22 expansion of advanced situational awareness capabilities across its service territory,
23 PacifiCorp has also been able to expand its formal PSPS program (as distinct from the more
24 reactive de-energization acts performed in conjunction with first responders) beyond just the
25 pre-identified highest fire risk areas. (Though this expansion was always the plan from the
26 beginning, PacifiCorp has made significant progress in implementing the expansion of both

1 PSPS and wildfire mitigation measures more generally since Labor Day 2020.) In other
2 words, PacifiCorp now has the technological and informational capability to conduct a PSPS
3 anywhere in its Oregon service territory. (Trial Tr. 9291:20-9292:2, 9371:6-13, 9434:7-18.)
4 Indeed, PacifiCorp was able to remove the concept of PDZs (or “proactive de-energization
5 zones”) entirely from its 2023 Wildfire Mitigation Plan, reflecting the fact that formal PSPS
6 events are no longer limited to PDZs. (Trial Tr. 9291:15-19.)

7 ***Improvements to Information Sharing Capabilities.*** Plaintiffs also criticized
8 PacifiCorp’s internal information flow processes leading up to Labor Day 2020, arguing that
9 important information was not reaching the right stakeholders both inside and outside the
10 company. Those criticisms are unfounded today. For example, the granular weather
11 forecasts generated by the in-house meteorology department are distributed on a ***daily*** basis
12 to district operational managers and field employees to make them aware of specific weather
13 information; again, this daily reporting cadence has been expanded to the ***entire*** service
14 territory, not just highest-risk areas. (Trial Tr. 9299:1-25.) The forecasts are also distributed
15 to members of the Emergency Operations Center, and during fire season, the daily forecast
16 distributions are supplemented with daily briefing calls involving field leadership, emergency
17 management staff, executive leadership, engineers, and others. (Trial Tr. 9419:7-9420:11.)
18 In short, detailed daily weather information is now distributed to all operational levels of the
19 company by an in-house meteorology department that is staffed every single day.

20 PacifiCorp has also expanded its communications channels with external
21 stakeholders. Most notably, PacifiCorp has expanded the scope of community outreach in
22 the context of PSPS by coordinating with county emergency managers and customers across
23 the entire Oregon service territory; this coordination has included tabletop exercises, public
24 workshops, and media outreach, among other things. (Trial Tr. 9435:14-20.) In addition,
25 PacifiCorp engages in both informal and formal collaborations with other utilities in not just
26 Oregon, but also other western states like California and Idaho to share scientific and

1 technological updates in the wildfire mitigation sphere, based on the recognition that utility
2 fire mitigation requires a collaborative response. (Trial Tr. 9432:12-9433:3.)

3 ***Successful PSPS Event in Oregon in 2022.*** In September 2022, PacifiCorp was able
4 to apply the above-mentioned situational awareness improvements as well as the lessons
5 learned from Labor Day 2020 to successfully implement a PSPS event in Oregon. (Trial Tr.
6 9311:18-24; Berreth Decl. ¶¶ 2-11; Berreth Decl., Ex. A.) The September 2022 PSPS
7 covered some of the same geographic areas at issue during Labor Day 2020—including the
8 Santiam Canyon and the Lincoln City area—except this time, PacifiCorp had advanced
9 notice of the granular weather forecast and system impact data necessary to support the
10 targeted proactive shutoff of numerous powerlines. (Trial Tr. 9443:25-9444:10.)

11 With advance notice, PacifiCorp was able to begin outreach to public safety partners
12 72 hours before the event and to customers and the public 48 hours before the event.
13 (Berreth Decl. ¶¶ 2-3.) Through these outreach efforts, PacifiCorp was able to identify and
14 account for vulnerable customers ahead of the event. (Berreth Decl. ¶ 6.) PacifiCorp also
15 activated its internal Emergency Coordination Center (“ECC”) days before the event.
16 (Berreth Decl. ¶ 4.) The ECC in turn collaborated with state, county, and local public safety
17 partners throughout the event, including through daily emergency support function and
18 coordination calls. (Berreth Decl. ¶ 5.) In addition, PacifiCorp’s in-house meteorology team
19 coordinated with other utilities, including Portland General Electric and the Bonneville
20 Power Administration, to share information regarding both weather and system status both
21 before and during the PSPS event, and PacifiCorp’s communications team similarly
22 developed joint customer messaging in collaboration with Portland General Electric.
23 (Berreth Decl. ¶¶ 4, 7.) In terms of operational preparations, PacifiCorp was able to deploy
24 field crews to potential PSPS areas to conduct additional wildfire mitigation activities.
25 (Berreth Decl. ¶ 8.) PacifiCorp crews changed system settings, patrolled for abnormal
26 system conditions, and evaluated tree clearances. (Berreth Decl. ¶ 8.) PacifiCorp also

1 deployed 10 portable weather stations to areas of risk to obtain supplemental situational
2 awareness data to help inform operational decisions. (Berreth Decl. ¶ 4.)

3 All in all, the event lasted around 24 hours and affected nearly 12,000 customers.
4 (Berreth Decl. ¶¶ 2, 9, 11.) PacifiCorp coordinated over 200 field resources to patrol the
5 affected areas and inspect lines for hazards in advance of the restoration of power. (Berreth
6 Decl. ¶ 9.) During the PSPS event, PacifiCorp activated three community resource centers
7 (“CRCs”), including centers in Marion County and Linn County, in order to provide
8 emergency and medical support to customers during the shutoff event. (Berreth Decl. ¶ 10.)
9 In short, the September 2022 PSPS event is a reflection of the successful operation of
10 PacifiCorp’s expanded wildfire mitigation and situational awareness capabilities, and the
11 September 2022 PSPS was exactly how PacifiCorp’s wildfire mitigation plan was designed
12 to function. Even then, PacifiCorp nonetheless identified lessons learned from the 2022
13 event to inform future PSPS implementations. (See Berreth Decl., Ex. A at 6-8.)

14 ***Improvements to Vegetation Management Inspections.*** Beyond the situational
15 awareness and emergency response arena, PacifiCorp has also made significant
16 improvements in its vegetation management practices after the fires. For example, since
17 Labor Day 2020, PacifiCorp implemented a major transition from a four-year vegetation
18 inspection cycle for its distribution lines to a shorter three-year cycle with more frequent
19 inspections to target faster-growing vegetation. (DTX 8593 at 13.) PacifiCorp also
20 developed an internal quality assurance department within the broader vegetation
21 management department with the goal of more closely assessing and reviewing the work of
22 vegetation management contractors. (Trial Tr. 9305:8-22.) The result is that PacifiCorp’s
23 internal foresters—who were previously responsible for this type of auditing work—can now
24 devote full resources to underlying vegetation management work. (Trial Tr. 9305:18-
25 9306:1.) Indeed, the volume of vegetation management work completed went up in the year
26

1 2022—1,700 additional line miles were inspected, 18,600 additional trees were trimmed,
2 22,700 additional trees were removed, and 20,000 poles were cleared. (DTX 8593 at 13.)

3 ***System Hardening Improvements.*** PacifiCorp has also vastly pushed forward its
4 system hardening efforts in the years since Labor Day 2020. In 2022, PacifiCorp completed
5 the scoping and design phase for 91 new miles of covered conductor and began the
6 construction process; in 2023, PacifiCorp plans to finish constructing the remaining 89 new
7 miles of covered conductor in Oregon. (DTX 8593 at 15.) In total, PacifiCorp plans to
8 construct 591 miles of covered conductor by 2027 and plans to finish the design phase for at
9 least 716 miles of covered conductor by that same time. (DTX 8593 at 15.) As explained
10 throughout trial, covered conductor technology reduces the risk of incidents caused by
11 vegetation contact with powerlines. PacifiCorp also replaced 1,000 expulsion fuses in 2022,
12 with plans to replace more than 26,000 expulsion fuses through the end of 2027. (DTX 8593
13 at 15.) In addition, PacifiCorp has rolled out technologies like fault indicators (which help
14 enable quicker detection and response to faults and outages on powerlines) and advanced
15 relays and reclosers that can be operated remotely, which means they can be changed to safer
16 settings more quickly than before. (Trial Tr. 9301:3-9302:21.)

17 ***Increased Financial Investment in Wildfire Safety.*** Finally, PacifiCorp’s post-fire
18 investment in improving every aspect of its wildfire mitigation program is fully reflected in
19 PacifiCorp’s budgeting and spending practices. In 2022, PacifiCorp spent ***\$53 million*** in
20 incremental (that is, in addition to baseline operations expenses) funds specifically targeting
21 wildfire mitigation: that included \$20 million to support capital improvements like weather
22 stations and system hardening, as well as \$33 million in expenses like enhanced vegetation
23 management. (DTX 8593 at 4.) Looking forward, PacifiCorp plans to spend ***\$610 million*** in
24 incremental wildfire mitigation funds over the next five years, which would include \$440
25 million in capital spending and \$170 million in expenses. (DTX 8593 at 4.) These financial
26

1 investments are intended to (and do in fact) benefit *all* of PacifiCorp’s customers across the
2 entire service territory in Oregon.

3 **IV. CONCLUSION**

4 For the reasons explained above, PacifiCorp respectfully requests that the Court
5 review and reduce the punitive damages award under ORS 31.730, especially in light of the
6 fulsome remedial measures that PacifiCorp has taken and continues to take since 2020.

7 DATED: October 17, 2023

8 STOEL RIVES LLP

9 /s/ Per A. Ramfjord
10 PER A. RAMFJORD, OSB No. 934024
per.ramfjord@stoel.com
11 BRAD S. DANIELS, OSB No. 025178
brad.daniels@stoel.com
12 REILLEY D. KEATING, OSB No. 073762
reilley.keating@stoel.com
13 Telephone: (503) 224-3380

14 -AND-

15 Alison L. Plessman, *pro hac vice*
aplessman@hueston.com
16 William M. Larsen, *pro hac vice*
wlarsen@hueston.com
17 Stephanie W. Xiao, *pro hac vice*
sxiao@hueston.com
18 Khoa D. Nguyen, *pro hac vice*
knguyen@hueston.com
19 Rajan S. Trehan, *pro hac vice*
rajan.trehan@hueston.com
20 Blair E. Ganson, *pro hac vice*
bganson@hueston.com
21 Padraic w. Foran, *pro hac vice*
pforan@hueston.com
22 HUESTON HENNIGAN LLP
523 West 6th Street, Suite 400
23 Los Angeles, CA 90014
Telephone: (213) 788-4340

24
25 Thomas B. King, *pro hac vice*
tking@hueston.com
26 Douglas J. Dixon, *pro hac vice*
ddixon@hueston.com
Craig A. Fligor, *pro hac vice*

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

cfligor@hueston.com
Michael P. Schneider, *pro hac vice*
mschneider@hueston.com
HUESTON HENNIGAN LLP
620 Newport Center Drive, Suite 1300
Newport Beach, CA 92660
Telephone: (949) 229-6840

-AND-

Blaine Evanson, *pro hac vice* (pending)
bevanson@gibsondunn.com
GIBSON, DUNN & CRUTCHER LLP
3161 Michelson Drive
Irvine, California, 92612
Telephone: (949) 451-3800

*Attorneys for Defendants PacifiCorp and
Pacific Power*

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that I served a true and correct copy of the foregoing document titled
3 **DEFENDANTS’ MOTION TO REDUCE PUNITIVE DAMAGES AWARD UNDER**
4 **ORS 31.730** on the following named person(s) or party(ies) on the date and by the method(s)
5 indicated below.

- 6 mailing with postage prepaid. email. (courtesy copy only)
- 7 hand delivery. email pursuant to agreement among
8 parties/counsel dated October 29, 2020,
9 (Plaintiffs James, et al. only)
- 10 overnight delivery. eService via OJD eFile. (if registered)

11 If by mail or overnight delivery, a true copy of the above referenced document(s) was served
12 upon said person(s) or party(ies), contained in a sealed envelope or package, addressed to
13 said person(s) or party(ies) at their last-known address(es) indicated below.

14 **Service List Attached**

15 DATED: October 17, 2023

16 /s/ Per A. Ramfjord
17 PER A. RAMFJORD, OSB No. 934024
18 per.ramfjord@stoel.com
19 BRAD S. DANIELS, OSB No. 025178
20 brad.daniels@stoel.com

21 Of Attorneys for Defendants PacifiCorp and
22 Pacific Powe
23
24
25
26

STOEL RIVES LLP
760 SW Ninth Avenue, Suite 3000, Portland, OR 97205
Main 503.224.3380 Fax 503.220.2480

1 Amy B. Hausmann
Nicholas H. Rosinia
2 Zoë Seaman-Grant
Landon Webster
3 EDELSON PC
350 N. LaSalle Street, 14th Floor
4 Chicago, IL 60654

abhausmann@edelson.com
nrosinia@edelson.com
zseaman-grant@edelson.com
lwebster@edelson.com

5 Derek C Johnson
Marilyn A Heiken
6 JOHNSON JOHNSON LUCAS &
MIDDLETON
7 975 Oak Street, Suite 1050
Eugene OR 97401

djohnson@justicelawyers.com
mheiken@justicelawyers.com
anibblett@justicelawyers.com

8 **Attorneys for Allen Plaintiffs, Cady Plaintiffs, and Logan Plaintiffs:**

9 Gerald Singleton
10 Susan Dussault
John Lemon
11 SINGLETON SCHREIBER LLP
591 Camino De La Reina Suite 1025
12 San Diego CA 92108

gsingleton@singletonschreiber.com
sdussault@singletonschreiber.com
jlemon@singletonschreiber.com

13 **Attorneys for Freres Timber and C.W. Specialty Lumber, Inc. Plaintiffs:**

14 Michael E. Haglund
Christopher Lundberg
15 Christopher T. Griffith
Matt Malmsheimer
16 HAGLUND KELLEY LLP, Attorneys At Law
2177 SW Broadway
17 Portland, OR 97201

haglund@hk-law.com
clundberg@hk-law.com
cgriffith@hk-law.com
mmalmsheimer@hk-law.com

18 **Attorneys for Bell Plaintiffs (22CV30450):**

19 Brady Mertz
BRADY MERTZ, PC
20 685 Church St NE
Salem, OR 97301

brady@bradymertz.com

21 Alexander Robertson, IV
22 ROBERTSON & ASSOCIATES, LLP
32121 Lindero Canyon Road, Suite 200
23 Westlake Village, CA 91361

arobertson@arobertsonlaw.com

24 Robert A. Curtis
FOLEY BEZEK BEHLE & CURTIS, LLP
25 15 W. Carrillo St.
Santa Barbara, CA 93101
26

rcurtis@foleybezek.com