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IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

JEANYNE JAMES, ROBIN COLBERT,
WENDELL CARPENTER, JANE DREVO,
SAM DREVO, BROOKE EDGE AND BILL
EDGE, SR., LORI FOWLER, IRIS
HAMPTON, JAMES HOLLAND,
RACHELLE MCMASTER, KRISTINA
MONTROYA, NORTHWEST RIVER
GUIDES, LLC, JEREMY SIGEL,
SHARIENE STOCKTON AND KEVIN
STOCKTON, individually and on behalf of
all others similarly situated,

Plaintiffs,

v.

PACIFICORP, an Oregon corporation; and
PACIFIC POWER, an Oregon registered
electric utility and assumed business name of
PACIFICORP,

Defendants.

No. 20CV33885
ANSWER AND AFFIRMATIVE
DEFENSES OF DEFENDANTS
PACIFICORP AND PACIFIC POWER
Fee Authority: ORS 21.160(1)(d)
JURY TRIAL DEMANDED
Assigned to: Judge Steffan Alexander

Defendants PacifiCorp and Pacific Power (“Defendants” or “PacifiCorp”) answer
Plaintiffs’ Amended Class Action Complaint (“Complaint”) as follows:

ANSWER

GENERAL RESPONSES

Except as expressly admitted herein, PacifiCorp denies any and all material allegations
in the Complaint. PacifiCorp generally and specifically denies each and every, all and
singular, conjunctively and disjunctively, allegation contained in said Complaint, and each
and every part thereof, and each and every cause of action thereof, and further specifically

1 denies that Plaintiffs have been injured or damaged in the sum alleged, or in any other sum, or
2 at all, by reason of any carelessness, negligence, act, or omission of PacifiCorp.

3 With the exception of the Affirmative Defenses, the numbered paragraphs of this
4 Answer correspond to the paragraphs as numbered in the Complaint. To the extent
5 paragraphs in the Complaint are grouped under headings, PacifiCorp responds generally that
6 such headings and groupings are conclusions of law or fact and deny each and every such
7 allegation made or implied by such headings or groupings.

8 **SPECIFIC RESPONSES**

9 1.

10 The first and third sentences of Paragraph 1 recite the nature of plaintiffs' allegations
11 and do not require a response. To the extent those sentences contain any factual allegations,
12 PacifiCorp denies them. PacifiCorp admits the second sentence of Paragraph 1.

13 2.

14 PacifiCorp denies the allegations in Paragraph 2.

15 3.

16 PacifiCorp lacks knowledge or information sufficient to form a belief about the
17 allegations in Paragraph 3, and on that basis denies them.

18 4.

19 PacifiCorp denies the allegations in Paragraph 4.

20 5.

21 In response to first two sentences of Paragraph 5, PacifiCorp admits that the National
22 Weather Service issued a "fire weather message" on September 5, 2020 that indicated wind
23 speeds in parts of Oregon could reach 75 mph. PacifiCorp lacks knowledge or information
24 sufficient to form a belief about the remaining allegations in Paragraph 5, and on that basis
25 denies them.

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1 6.

2 PacifiCorp denies the allegations of Paragraph 6.

3 7.

4 PacifiCorp denies the allegations of Paragraph 7.

5 8.

6 PacifiCorp lacks knowledge or information sufficient to form a belief about the
7 allegations in Paragraph 8, and on that basis denies them.

8 9.

9 PacifiCorp lacks knowledge or information sufficient to form a belief about the
10 allegations in Paragraph 9, and on that basis denies them.

11 10.

12 PacifiCorp admits that climate change has caused increased behavior of wildfires, that
13 PacifiCorp engages in planning to reduce fire risk, and that PacifiCorp participates in
14 government and community workgroups. PacifiCorp denies the remaining allegations of
15 Paragraph 10.

16 11.

17 PacifiCorp lacks knowledge or information sufficient to form a belief about the
18 allegations in the first two sentences of Paragraph 11, and on that basis denies them.
19 PacifiCorp denies the remaining allegations of Paragraph 11.

20 12.

21 PacifiCorp admits that, in prior litigation, PacifiCorp admitted that the Williams Fire
22 resulted from PacifiCorp transmission line facilities. PacifiCorp denies the remaining
23 allegations of Paragraph 12.

24 13.

25 PacifiCorp admits that on September 9, 2020, the Northwest Incident Management
26 Team issued a statement regarding the Beachie Creek Fire, and that that statement is

1 accurately quoted in the Complaint. To the extent that Paragraph 13 alleges that the quoted
2 statement is accurate as to the underlying facts, PacifiCorp denies the same. PacifiCorp
3 denies the remaining allegations of Paragraph 13.

4 14.

5 Paragraph 14 consists of conclusions of law to which no response is necessary or
6 appropriate. To the extent a response is required, PacifiCorp denies the allegations of
7 Paragraph 14.

8 15.

9 PacifiCorp lacks knowledge or information sufficient to form a belief about the
10 allegations in the second sentence of Paragraph 15, and on that basis denies them.
11 PacifiCorp denies the remaining allegations of Paragraph 15.

12 16.

13 PacifiCorp denies the allegations of Paragraph 16.

14 17.

15 PacifiCorp lacks knowledge or information sufficient to form a belief about the
16 allegations in Paragraph 17 and therefore denies the same.

17 18.

18 PacifiCorp admits that it is an Oregon corporation doing business as a public utility in
19 Oregon. PacifiCorp admits that, as of 2020, PacifiCorp's annual revenue as reported on
20 Berkshire Hathaway Energy's Form 10-K was \$5.341 billion. PacifiCorp denies the
21 remaining allegations of Paragraph 18.

22 19.

23 PacifiCorp admits the allegations of Paragraph 19.

24 20.

25 PacifiCorp denies the allegations of Paragraph 20.

26 ///

1 21.

2 PacifiCorp admits the first, third, and fourth sentences of Paragraph 21. PacifiCorp
3 denies the second sentence of Paragraph 21 because Pacific Power is an assumed business
4 name of PacifiCorp, not a separate corporate entity. The remaining allegations in Paragraph
5 21 consist of conclusions of law to which no response is necessary or appropriate. To the
6 extent a response is required, PacifiCorp denies the remaining allegations of Paragraph 21.

7 22.

8 PacifiCorp admits the allegations of Paragraph 22.

9 23.

10 PacifiCorp admits the allegations of Paragraph 23.

11 24.

12 PacifiCorp lacks knowledge or information sufficient to form a belief about the
13 allegations in Paragraph 24 and therefore denies the same.

14 25.

15 PacifiCorp lacks knowledge or information sufficient to form a belief about the
16 allegations in Paragraph 25 and therefore denies the same.

17 26.

18 PacifiCorp lacks knowledge or information sufficient to form a belief about the
19 allegations in Paragraph 26 and therefore denies the same.

20 27.

21 PacifiCorp lacks knowledge or information sufficient to form a belief about the
22 allegations in Paragraph 27 and therefore denies the same.

23 28.

24 PacifiCorp lacks knowledge or information sufficient to form a belief about the
25 allegations in Paragraph 28 and therefore denies the same.

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1 29.

2 PacifiCorp lacks knowledge or information sufficient to form a belief about the
3 allegations in Paragraph 29 and therefore denies the same.

4 30.

5 PacifiCorp lacks knowledge or information sufficient to form a belief about the
6 allegations in Paragraph 30 and therefore denies the same.

7 31.

8 PacifiCorp lacks knowledge or information sufficient to form a belief about the
9 allegations in Paragraph 31 and therefore denies the same.

10 32.

11 PacifiCorp lacks knowledge or information sufficient to form a belief about the
12 allegations in Paragraph 32 and therefore denies the same.

13 33.

14 PacifiCorp lacks knowledge or information sufficient to form a belief about the
15 allegations in Paragraph 33 and therefore denies the same.

16 34.

17 PacifiCorp lacks knowledge or information sufficient to form a belief about the
18 allegations in Paragraph 34 and therefore denies the same.

19 35.

20 PacifiCorp lacks knowledge or information sufficient to form a belief about the
21 allegations in Paragraph 35 and therefore denies the same.

22 36.

23 PacifiCorp lacks knowledge or information sufficient to form a belief about the
24 allegations in Paragraph 36 and therefore denies the same.

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1 37.

2 PacifiCorp lacks knowledge or information sufficient to form a belief about the
3 allegations in Paragraph 37 and therefore denies the same.

4 38.

5 PacifiCorp admits that it is an Oregon corporation that engages in regular, sustained
6 business in Multnomah County and maintains its principal place of business at 825 NE
7 Multnomah Street, Suite 2000, Portland, Oregon 97232. The remaining allegations in
8 Paragraph 38 consist of conclusions of law to which no response is necessary or appropriate.
9 To the extent a response is required, PacifiCorp denies the remaining allegations of
10 Paragraph 38.

11 39.

12 PacifiCorp admits that it engages in regular, sustained business in Multnomah County
13 and maintains its principal place of business in Multnomah County. The remaining
14 allegations in Paragraph 39 consist of conclusions of law to which no response is necessary
15 or appropriate. To the extent a response is required, PacifiCorp denies the remaining
16 allegations of Paragraph 39.

17 40.

18 The allegations in Paragraph 40 consist of conclusions of law to which no response is
19 necessary or appropriate. To the extent a response is required, PacifiCorp denies the
20 allegations of Paragraph 40.

21 41.

22 The allegations in Paragraph 41 consist of conclusions of law to which no response is
23 necessary or appropriate. To the extent a response is required, PacifiCorp denies the
24 allegations of Paragraph 41.

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1 42.

2 PacifiCorp admits that it owns, builds, operates, and maintains power lines and other
3 electrical equipment throughout Oregon and other states for the purpose of supplying power
4 to customers. PacifiCorp denies the remaining allegations of Paragraph 42.

5 43.

6 The allegations in Paragraph 43 consist of conclusions of law to which no response is
7 necessary or appropriate. To the extent a response is required, PacifiCorp denies the
8 allegations of Paragraph 43.

9 44.

10 The allegations in Paragraph 44 consist of conclusions of law to which no response is
11 necessary or appropriate. To the extent a response is required, PacifiCorp denies the
12 allegations of Paragraph 44.

13 45.

14 The allegations in Paragraph 45 consist of conclusions of law to which no response is
15 necessary or appropriate. To the extent a response is required, PacifiCorp denies the
16 allegations of Paragraph 45.

17 46.

18 PacifiCorp admits that in *United States v. PacifiCorp et al.*, No. 6:15-cv-01350-AA
19 (D. Or.), it admitted specific allegations of the United States within the context of that case as
20 contained in Docket No. 12, ¶ 13, and Docket No. 31, ¶ 1. PacifiCorp admits that Paragraph
21 46 accurately quotes those paragraphs. The remaining allegations of Paragraph 46 consist of
22 conclusions of law to which no response is necessary or appropriate. To the extent a
23 response is required, PacifiCorp denies the remaining allegations of Paragraph 46.

24 47.

25 PacifiCorp admits that in paragraph 50 of PacifiCorp's cross claim against Defendant
26 Mountain Power in *United States v. PacifiCorp et al.*, No. 6:15-cv-01350-AA (D. Or.),

1 PacifiCorp alleged that Mountain Power was liable for a payment that PacifiCorp made to the
2 Seneca Jones Timber Company. PacifiCorp denies the remaining allegations of Paragraph 47.

3 48.

4 PacifiCorp admits the allegations of Paragraph 48.

5 49.

6 PacifiCorp lacks knowledge or information sufficient to form a belief about the
7 allegations in Paragraph 49 and therefore denies the same.

8 50.

9 PacifiCorp admits that, on September 26, 2019, the State of Oregon issued a
10 document titled “Utility Preparedness for Wildfires.” PacifiCorp admits that that document
11 contains the quoted language. PacifiCorp lacks knowledge or information sufficient to form
12 a belief about the remaining allegations of Paragraph 50 and therefore denies the same.

13 51.

14 PacifiCorp denies that the document titled “Utility Preparedness for Wildfires”
15 contains the language quoted in Paragraph 51.

16 52.

17 PacifiCorp admits that David Lucas, PacifiCorp’s Vice President of Transmission and
18 Distribution Operations, appeared at a special public meeting of the Oregon Public Utility
19 Commission on June 18, 2019, and that Paragraph 52 accurately quotes Mr. Lucas’s
20 statements. PacifiCorp denies the remaining allegations of Paragraph 52.

21 53.

22 PacifiCorp admits that it presented a slide regarding its “Risk-Based Approach”
23 during the June 18, 2019, special meeting regarding PG&E’s and PacifiCorp’s wildfire
24 mitigation plans before the Oregon Public Utility Commission, and that Paragraph 53
25 accurately quotes a portion of that slide presentation. PacifiCorp denies the remaining
26 allegations of Paragraph 53.

1 54.

2 PacifiCorp admits that Heide Caswell, PacifiCorp’s Director of Transmission and
3 Distribution Asset Performance, appeared at a special public meeting of the Oregon Public
4 Utility Commission on June 18, 2019, and that Paragraph 54 accurately quotes from Ms.
5 Caswell’s testimony. PacifiCorp denies the remaining allegations of Paragraph 54.

6 55.

7 PacifiCorp admits that it presented a slide regarding “Situational Awareness” during
8 the June 18, 2019, special meeting regarding PG&E’s and PacifiCorp’s wildfire mitigation
9 plans before the Oregon Public Utility Commission, and that that a portion of that slide
10 presentation is accurately quoted in Paragraph 55.

11 56.

12 PacifiCorp admits that Paragraph 56 accurately quotes a portion of Mr. Lucas’s
13 statement during the June 18, 2019, special of the Oregon Public Utility Commission, with
14 the exception of a transcription error (the Complaint is missing the words “the possibility”
15 before the words “that those numbers”). PacifiCorp denies the remaining allegations of
16 Paragraph 56.

17 57.

18 PacifiCorp admits that it published a June 25, 2019, document titled “Wildfire Safety
19 and Preparedness Frequently Asked Questions,” and that Paragraph 57 accurately quotes
20 from that document.

21 58.

22 PacifiCorp admits that it has published a presentation containing “Public Safety
23 Power Shut-off Key Points,” and that Paragraph 58 accurately quotes from that document.

24 59.

25 PacifiCorp admits that Paragraph 59 accurately quotes from the presentation cited in
26 Paragraph 58.

1 60.

2 PacifiCorp admits that it published a May 21, 2020, report, and that Paragraph 60
3 accurately quotes from that document.

4 61.

5 PacifiCorp admits that Paragraph 61 accurately quotes from reporting of PacifiCorp
6 Vice President Scott Bolton speaking with KATU News.

7 62.

8 PacifiCorp admits that Paragraph 62 accurately quotes from the reporting cited in
9 Paragraph 61.

10 63.

11 PacifiCorp admits that Heide Caswell and Allen Berreth held a webinar on May 29,
12 2020, and that Paragraph 63 accurately quotes from that webinar.

13 64.

14 PacifiCorp admits that Paragraph 64 accurately quotes from the May 29, 2020
15 webinar. PacifiCorp otherwise denies the remaining allegations of Paragraph 64.

16 65.

17 PacifiCorp admits that Paragraph 65 accurately quotes from the May 29, 2020 webinar.

18 66.

19 PacifiCorp admits that Paragraph 66 accurately quotes from the May 29, 2020 webinar.

20 67.

21 PacifiCorp admits that Paragraph 67 accurately quotes the May 29, 2020 webinar.

22 PacifiCorp admits that it had not performed a PSPS prior to May 29, 2020.

23 68.

24 PacifiCorp admits that Paragraph 68 accurately quotes from the May 29, 2020 webinar.

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1 69.

2 PacifiCorp admits that the phrase quoted in Paragraph 69 appears on the last slide
3 shown during the May 29, 2020, webinar.

4 70.

5 PacifiCorp admits that Paragraph 70 accurately quotes from the testimony of Etta
6 Lockey, PacifiCorp’s Vice President of Regulation, appearing in Exhibit PAC/3300,
7 Lockey/38, in Oregon Public Utility Commission Docket No. UE 374.

8 71.

9 PacifiCorp admits that Paragraph 71 accurately quotes from PacifiCorp’s 2020
10 California Wildfire Mitigation Plan. PacifiCorp otherwise denies the remaining allegations
11 of Paragraph 71.

12 72.

13 PacifiCorp admits that Paragraph 72 accurately quotes from PacifiCorp’s 2020
14 California Wildfire Mitigation Plan. PacifiCorp otherwise denies the remaining allegations
15 of Paragraph 72.

16 73.

17 PacifiCorp admits that Paragraph 73 accurately quotes from a document that appears
18 to be published by the Oregon Public Utilities Commission titled “Wildfire and the Oregon
19 Electricity System: Common Questions Asked of the PUC.” PacifiCorp otherwise denies the
20 remaining allegations of Paragraph 73.

21 74.

22 PacifiCorp denies the allegations of Paragraph 74.

23 75.

24 PacifiCorp admits that Paragraph 75 accurately quotes from the “Public Safety Power
25 Shutoff” section of PacifiCorp’s website, located at <https://www.pacificpower.net/outages->

26

1 safety/wildfire-safety/public-safety-power-shutoff.html. PacifiCorp otherwise denies the
2 allegations of Paragraph 75.

3 76.

4 PacifiCorp denies the allegations of Paragraph 76.

5 77.

6 PacifiCorp admits that Mr. Bird and Mr. Lucas spoke during a Special Public
7 Meeting of the Oregon Public Utilities Commission on October 1, 2020, and that Paragraph
8 77 accurately quotes from Mr. Bird's statements to the Commission.

9 78.

10 PacifiCorp admits that Paragraph 78 accurately quotes from Mr. Bird's statements to
11 the Commission on October 1, 2020. PacifiCorp otherwise denies the allegations of
12 Paragraph 78.

13 79.

14 PacifiCorp admits that Paragraph 79 accurately quotes the May 21, 2020, Oregon
15 Wildfire Mitigation Effort Update report, and otherwise denies the remaining allegations of
16 Paragraph 79.

17 80.

18 PacifiCorp admits that, as of the May 21, 2020, Oregon Wildfire Mitigation Effort
19 Update report, approximately 2,679 overhead line miles (or roughly 17%) of PacifiCorp's
20 power lines were designated as being in Fire High Consequence Areas. PacifiCorp otherwise
21 denies the remaining allegations of Paragraph 80.

22 81.

23 PacifiCorp denies the allegations of Paragraph 81.

24 82.

25 PacifiCorp denies the allegations of Paragraph 82.

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1 83.

2 PacifiCorp admits that, in some circumstances, PacifiCorp can (and does) use safety
3 features to reduce fire risk, such as using non-expulsion fuses, conducting inspections and
4 vegetation management, and implementing a Public Safety Power Shutoff program, among
5 other things. PacifiCorp denies the remaining allegations of Paragraph 83.

6 84.

7 PacifiCorp admits that it uses reclosers in parts of its service territory. PacifiCorp
8 denies the remaining allegations of Paragraph 84.

9 85.

10 PacifiCorp denies the allegations of Paragraph 85.

11 86.

12 PacifiCorp admits that it has contacted customers regarding routine vegetation
13 management after September 7, 2020. PacifiCorp lacks knowledge or information sufficient
14 to form a belief about the remaining allegations of Paragraph 86 and on that basis denies the
15 same.

16 87.

17 PacifiCorp admits that it maintains firefighting equipment. PacifiCorp lacks
18 knowledge or information sufficient to form a belief about the remaining allegations in
19 Paragraph 87 and therefore denies the same.

20 88.

21 PacifiCorp lacks knowledge or information sufficient to form a belief about the
22 allegations in Paragraph 88 and therefore denies the same.

23 89.

24 PacifiCorp admits that, on September 5, 2020, the National Weather Service issued a
25 fire weather message regarding fire weather conditions along the West Coast. PacifiCorp
26 denies the remaining allegations in Paragraph 89.

1 90.

2 PacifiCorp admits that, on September 6, 2020, the National Weather Service issued a
3 fire weather outlook and that that outlook is accurately quoted in Paragraph 90.

4 91.

5 PacifiCorp admits that on September 7, 2020, the National Weather Service issued a
6 fire weather outlook and that that outlook is accurately quoted in Paragraph 91.

7 92.

8 PacifiCorp lacks knowledge or information sufficient to form a belief about the
9 allegations in Paragraph 92 and therefore denies the same.

10 93.

11 PacifiCorp admits that its Pacific Power Facebook account posted on September 7,
12 2020, regarding a forecast by the National Weather Service, and that both Pacific Power's
13 Facebook post and one of the comments to that post are accurately quoted in Paragraph 93.
14 PacifiCorp denies the remaining allegations of Paragraph 93.

15 94.

16 PacifiCorp admits that its @PacificPower_OR Twitter account quote-tweeted a
17 September 7, 2020, tweet by the National Weather Service Portland's @NWSPortland
18 Twitter account and that both the @NWSPortland's tweet and @PacificPower_OR's quote
19 tweet are accurately quoted in Paragraph 94. PacifiCorp denies the remaining allegations of
20 Paragraph 94.

21 95.

22 PacifiCorp lacks knowledge or information sufficient to form a belief about the
23 allegations in Paragraph 95 and therefore denies the same.

24 96.

25 PacifiCorp admits that its @PacificPower_OR Twitter account tweeted regarding
26 outages on September 7, 2020, and that those tweets are accurately quoted in Paragraph 96.

1 PacifiCorp lacks knowledge or information sufficient to form a belief about the remaining
2 allegations in Paragraph 96 and therefore denies the same.

3 97.

4 PacifiCorp lacks knowledge or information sufficient to form a belief about the
5 allegations in Paragraph 97 and therefore denies the same.

6 98.

7 PacifiCorp lacks knowledge or information sufficient to form a belief about the first
8 sentence of Paragraph 98 and therefore denies the same. PacifiCorp denies the remaining
9 allegations of Paragraph 98.

10 99.

11 PacifiCorp admits that it issued a press release on September 8, 2020, and that the
12 press release is accurately quoted in Paragraph 99. PacifiCorp otherwise denies the
13 remaining allegations of Paragraph 99.

14 100.

15 PacifiCorp denies the allegations of Paragraph 100.

16 101.

17 PacifiCorp denies the allegations of Paragraph 101.

18 102.

19 The allegations in Paragraph 102 consist of conclusions of law to which no response
20 is necessary or appropriate. To the extent a response is required, PacifiCorp denies the
21 allegations of Paragraph 102.

22 103.

23 PacifiCorp lacks knowledge or information sufficient to form a belief about the
24 allegations in Paragraph 103 and therefore denies the same.

25 104.

26 PacifiCorp denies the allegations of Paragraph 104.

1 105.

2 PacifiCorp lacks knowledge or information sufficient to form a belief about the
3 allegations in Paragraph 105 and therefore denies the same.

4 106.

5 PacifiCorp lacks knowledge or information sufficient to form a belief about the
6 allegations in Paragraph 106 and therefore denies the same.

7 107.

8 PacifiCorp lacks knowledge or information sufficient to form a belief about the
9 allegations in Paragraph 107 and therefore denies the same.

10 108.

11 PacifiCorp lacks knowledge or information sufficient to form a belief about the
12 allegations in Paragraph 108 and therefore denies the same.

13 109.

14 PacifiCorp admits that Paragraph 109 accurately quotes PacifiCorp's statements to
15 the Salem Statesman Journal as reported on September 24, 2020. PacifiCorp lacks
16 knowledge or information sufficient to form a belief about the remaining allegations in
17 Paragraph 109 and therefore denies the same.

18 110.

19 PacifiCorp admits that Paragraph 110 accurately quotes PacifiCorp's statements to
20 the Salem Statesman Journal as reported on September 24, 2020. PacifiCorp otherwise
21 denies the allegations in Paragraph 110.

22 111.

23 PacifiCorp lacks knowledge or information sufficient to form a belief about the
24 allegations in Paragraph 111 and therefore denies the same.

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1 112.

2 PacifiCorp lacks knowledge or information sufficient to form a belief about the
3 allegations in Paragraph 112 and therefore denies the same.

4 113.

5 PacifiCorp lacks knowledge or information sufficient to form a belief about the
6 allegations in Paragraph 113 and therefore denies the same.

7 114.

8 PacifiCorp lacks knowledge or information sufficient to form a belief about the
9 allegations in Paragraph 114 and therefore denies the same.

10 115.

11 PacifiCorp lacks knowledge or information sufficient to form a belief about the
12 allegations in Paragraph 115 and therefore denies the same.

13 116.

14 PacifiCorp lacks knowledge or information sufficient to form a belief about the
15 allegations in the first clause of Paragraph 116 and therefore denies the same. PacifiCorp
16 denies the remaining allegations of Paragraph 116.

17 117.

18 PacifiCorp admits that it owns, manages, controls, uses, and operates powerlines
19 throughout Oregon. PacifiCorp lacks knowledge or information sufficient to form a belief
20 about the allegations regarding the “areas of the Beachie Creek Fire, Echo Mountain
21 Complex, Pike Road Fire, Archie Creek Fire, Slater Fire, and the South Obenchain Fire,” and
22 on that basis denies them. PacifiCorp denies the remaining allegations of Paragraph 117.

23 118.

24 PacifiCorp denies the first two sentences of Paragraph 118. PacifiCorp lacks
25 knowledge or information sufficient to form a belief about the remaining allegations in
26 Paragraph 118 and therefore denies the same.

1 119.

2 PacifiCorp lacks knowledge or information sufficient to form a belief about the
3 allegations in Paragraph 119 and therefore denies the same.

4 120.

5 PacifiCorp lacks knowledge or information sufficient to form a belief about the
6 allegations in Paragraph 120 and therefore denies the same.

7 121.

8 PacifiCorp lacks knowledge or information sufficient to form a belief about the
9 allegations in Paragraph 121 and therefore denies the same.

10 122.

11 PacifiCorp lacks knowledge or information sufficient to form a belief about the
12 allegations in Paragraph 122 and therefore denies the same.

13 123.

14 PacifiCorp lacks knowledge or information sufficient to form a belief about the
15 allegations in Paragraph 123 and therefore denies the same.

16 124.

17 PacifiCorp lacks knowledge or information sufficient to form a belief about the
18 allegations in Paragraph 124 and therefore denies the same.

19 125.

20 PacifiCorp lacks knowledge or information sufficient to form a belief about the
21 allegations in Paragraph 125 and therefore denies the same.

22 126.

23 PacifiCorp lacks knowledge or information sufficient to form a belief about the
24 allegations in Paragraph 126 and therefore denies the same.

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1 127.

2 PacifiCorp lacks knowledge or information sufficient to form a belief about the
3 allegations in Paragraph 127 and therefore denies the same.

4 128.

5 PacifiCorp lacks knowledge or information sufficient to form a belief about the
6 allegations in Paragraph 128 and therefore denies the same.

7 129.

8 PacifiCorp lacks knowledge or information sufficient to form a belief about the
9 allegations in Paragraph 129 and therefore denies the same.

10 130.

11 PacifiCorp lacks knowledge or information sufficient to form a belief about the
12 allegations in Paragraph 130 and therefore denies the same.

13 131.

14 PacifiCorp lacks knowledge or information sufficient to form a belief about the
15 allegations in Paragraph 131 and therefore denies the same.

16 132.

17 PacifiCorp lacks knowledge or information sufficient to form a belief about the
18 allegations in Paragraph 132 and therefore denies the same.

19 133.

20 PacifiCorp lacks knowledge or information sufficient to form a belief about the
21 allegations in Paragraph 133 and therefore denies the same.

22 134.

23 PacifiCorp lacks knowledge or information sufficient to form a belief about the
24 allegations in Paragraph 134 and therefore denies the same.

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1 135.

2 PacifiCorp lacks knowledge or information sufficient to form a belief about the
3 allegations in Paragraph 135 and therefore denies the same.

4 136.

5 PacifiCorp lacks knowledge or information sufficient to form a belief about the
6 allegations in Paragraph 136 and therefore denies the same.

7 137.

8 PacifiCorp lacks knowledge or information sufficient to form a belief about the
9 allegations in Paragraph 137 and therefore denies the same.

10 138.

11 PacifiCorp lacks knowledge or information sufficient to form a belief about the
12 allegations in Paragraph 138 and therefore denies the same.

13 139.

14 PacifiCorp lacks knowledge or information sufficient to form a belief about the
15 allegations in Paragraph 139 and therefore denies the same.

16 140.

17 PacifiCorp lacks knowledge or information sufficient to form a belief about the
18 allegations in Paragraph 140 and therefore denies the same.

19 141.

20 PacifiCorp lacks knowledge or information sufficient to form a belief about the
21 allegations in Paragraph 141 and therefore denies the same.

22 142.

23 PacifiCorp lacks knowledge or information sufficient to form a belief about the
24 allegations in Paragraph 142 and therefore denies the same.

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26 ///

1 143.

2 PacifiCorp lacks knowledge or information sufficient to form a belief about the
3 allegations in Paragraph 143 and therefore denies the same.

4 144.

5 PacifiCorp lacks knowledge or information sufficient to form a belief about the
6 allegations in Paragraph 144 and therefore denies the same.

7 145.

8 PacifiCorp lacks knowledge or information sufficient to form a belief about the
9 allegations in Paragraph 145 and therefore denies the same.

10 146.

11 PacifiCorp lacks knowledge or information sufficient to form a belief about the
12 allegations in Paragraph 146 and therefore denies the same.

13 147.

14 PacifiCorp lacks knowledge or information sufficient to form a belief about the
15 allegations in Paragraph 147 and therefore denies the same.

16 148.

17 PacifiCorp lacks knowledge or information sufficient to form a belief about the
18 allegations in Paragraph 148 and therefore denies the same.

19 149.

20 PacifiCorp lacks knowledge or information sufficient to form a belief about the
21 allegations in Paragraph 149 and therefore denies the same.

22 150.

23 PacifiCorp lacks knowledge or information sufficient to form a belief about the
24 allegations in Paragraph 150 and therefore denies the same.

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1 151.

2 PacifiCorp lacks knowledge or information sufficient to form a belief about the
3 allegations in Paragraph 151 and therefore denies the same.

4 152.

5 PacifiCorp lacks knowledge or information sufficient to form a belief about the
6 allegations in Paragraph 152 and therefore denies the same.

7 153.

8 PacifiCorp lacks knowledge or information sufficient to form a belief about the
9 allegations in Paragraph 153 and therefore denies the same.

10 154.

11 PacifiCorp lacks knowledge or information sufficient to form a belief about the
12 allegations in Paragraph 154 and therefore denies the same.

13 155.

14 PacifiCorp lacks knowledge or information sufficient to form a belief about the
15 allegations in Paragraph 155 and therefore denies the same.

16 156.

17 PacifiCorp lacks knowledge or information sufficient to form a belief about the
18 allegations in Paragraph 156 and therefore denies the same.

19 157.

20 PacifiCorp lacks knowledge or information sufficient to form a belief about the
21 allegations in Paragraph 157 and therefore denies the same.

22 158.

23 PacifiCorp lacks knowledge or information sufficient to form a belief about the
24 allegations in Paragraph 158 and therefore denies the same.

25 ///

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1 159.

2 PacifiCorp lacks knowledge or information sufficient to form a belief about the
3 allegations in Paragraph 159 and therefore denies the same.

4 160.

5 PacifiCorp lacks knowledge or information sufficient to form a belief about the
6 allegations in Paragraph 160 and therefore denies the same.

7 161.

8 PacifiCorp lacks knowledge or information sufficient to form a belief about the
9 allegations in Paragraph 161 and therefore denies the same.

10 162.

11 PacifiCorp lacks knowledge or information sufficient to form a belief about the
12 allegations in Paragraph 162 and therefore denies the same.

13 163.

14 PacifiCorp lacks knowledge or information sufficient to form a belief about the
15 allegations in Paragraph 163 and therefore denies the same.

16 164.

17 PacifiCorp lacks knowledge or information sufficient to form a belief about the
18 allegations in Paragraph 164 and therefore denies the same.

19 165.

20 PacifiCorp lacks knowledge or information sufficient to form a belief about the
21 allegations in Paragraph 165 and therefore denies the same.

22 166.

23 PacifiCorp lacks knowledge or information sufficient to form a belief about the
24 allegations in Paragraph 166 and therefore denies the same.

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1 167.

2 PacifiCorp lacks knowledge or information sufficient to form a belief about the
3 allegations in Paragraph 167 and therefore denies the same.

4 168.

5 PacifiCorp lacks knowledge or information sufficient to form a belief about the
6 allegations in Paragraph 168 and therefore denies the same.

7 169.

8 PacifiCorp lacks knowledge or information sufficient to form a belief about the
9 allegations in Paragraph 169 and therefore denies the same.

10 170.

11 PacifiCorp lacks knowledge or information sufficient to form a belief about the
12 allegations in Paragraph 170 and therefore denies the same.

13 171.

14 PacifiCorp lacks knowledge or information sufficient to form a belief about the
15 allegations in Paragraph 171 and therefore denies the same.

16 172.

17 PacifiCorp lacks knowledge or information sufficient to form a belief about the
18 allegations in Paragraph 172 and therefore denies the same.

19 173.

20 PacifiCorp lacks knowledge or information sufficient to form a belief about the
21 allegations in Paragraph 173 and therefore denies the same.

22 174.

23 PacifiCorp lacks knowledge or information sufficient to form a belief about the
24 allegations in Paragraph 174 and therefore denies the same.

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1 175.

2 PacifiCorp lacks knowledge or information sufficient to form a belief about the
3 allegations in Paragraph 175 and therefore denies the same.

4 176.

5 PacifiCorp lacks knowledge or information sufficient to form a belief about the
6 allegations in Paragraph 176 and therefore denies the same.

7 177.

8 PacifiCorp lacks knowledge or information sufficient to form a belief about the
9 allegations in Paragraph 177 and therefore denies the same.

10 178.

11 PacifiCorp lacks knowledge or information sufficient to form a belief about the
12 allegations in Paragraph 178 and therefore denies the same.

13 179.

14 PacifiCorp lacks knowledge or information sufficient to form a belief about the
15 allegations in Paragraph 179 and therefore denies the same.

16 180.

17 PacifiCorp lacks knowledge or information sufficient to form a belief about the
18 allegations in Paragraph 180 and therefore denies the same.

19 181.

20 PacifiCorp lacks knowledge or information sufficient to form a belief about the
21 allegations in Paragraph 181 and therefore denies the same.

22 182.

23 Paragraph 182 recites the nature of Plaintiffs' allegations and does not require a
24 response. To the extent a response is required, PacifiCorp denies the allegations of
25 Paragraph 182.

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1 183.

2 Paragraph 183 recites the nature of Plaintiffs' allegations and does not require a
3 response. To the extent a response is required, PacifiCorp denies the allegations of
4 Paragraph 183.

5 184.

6 Paragraph 184 recites the nature of Plaintiffs' allegations and does not require a
7 response. To the extent a response is required, PacifiCorp lacks knowledge or information
8 sufficient to form a belief about the allegations in Paragraph 184 and therefore denies the
9 same.

10 185.

11 The allegations in Paragraph 185 consist of conclusions of law to which no response
12 is necessary or appropriate. To the extent a response is required, PacifiCorp denies the
13 allegations of Paragraph 185.

14 186.

15 The allegations in Paragraph 186 consist of conclusions of law to which no response
16 is necessary or appropriate. To the extent a response is required, PacifiCorp denies the
17 allegations of Paragraph 186.

18 187.

19 The allegations in Paragraph 187 consist of conclusions of law to which no response
20 is necessary or appropriate. To the extent a response is required, PacifiCorp denies the
21 allegations of Paragraph 187.

22 188.

23 The allegations in Paragraph 188 consist of conclusions of law to which no response
24 is necessary or appropriate. To the extent a response is required, PacifiCorp denies the
25 allegations of Paragraph 188.

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1 189.

2 The allegations in Paragraph 189 consist of conclusions of law to which no response
3 is necessary or appropriate. To the extent a response is required, PacifiCorp denies the
4 allegations of Paragraph 189.

5 190.

6 The allegations in Paragraph 190 consist of conclusions of law to which no response
7 is necessary or appropriate. To the extent a response is required, PacifiCorp denies the
8 allegations of Paragraph 190.

9 191.

10 PacifiCorp admits that Plaintiffs, through counsel, sent a notice and demand to
11 PacifiCorp, to which PacifiCorp did not respond. PacifiCorp denies that Plaintiffs sent that
12 notice on September 30, 2020. PacifiCorp's registered agent for service of process, CT
13 Corporation, received Plaintiffs' demand on October 12, 2020, and the notice was postmarked
14 as sent on October 8, 2020; Plaintiffs amended the Complaint to add damages allegations less
15 than 30 days later, on October 30, 2020. The remaining allegations in Paragraph 191 consist
16 of conclusions of law to which no response is necessary or appropriate. To the extent a
17 response is required, PacifiCorp denies the allegations of Paragraph 191.

18 192.

19 Paragraph 192 recites the nature of Plaintiffs' allegations and does not require a
20 response. To the extent a response is required, PacifiCorp denies the allegations of
21 Paragraph 192.

22 193.

23 Paragraph 193 recites the nature of Plaintiffs' allegations and does not require a
24 response. To the extent a response is required, PacifiCorp denies the allegations of
25 Paragraph 193.

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1 194.

2 The allegations in Paragraph 194 consist of conclusions of law to which no response
3 is necessary or appropriate. To the extent a response is required, PacifiCorp denies the
4 allegations of Paragraph 194.

5 195.

6 The allegations in Paragraph 195 consist of conclusions of law to which no response
7 is necessary or appropriate. To the extent a response is required, PacifiCorp denies the
8 allegations of Paragraph 195.

9 196.

10 The allegations in Paragraph 196 consist of conclusions of law to which no response
11 is necessary or appropriate. To the extent a response is required, PacifiCorp denies the
12 allegations of Paragraph 196.

13 197.

14 The allegations in Paragraph 197 consist of conclusions of law to which no response
15 is necessary or appropriate. To the extent a response is required, PacifiCorp denies the
16 allegations of Paragraph 197.

17 198.

18 Paragraph 198 recites the nature of Plaintiffs' allegations and does not require a response.
19 To the extent a response is required, PacifiCorp denies the allegations of Paragraph 198.

20 199.

21 In response to Paragraph 199, PacifiCorp incorporates its responses to Paragraphs 1
22 to 198.

23 200.

24 The allegations in Paragraph 200 consist of conclusions of law to which no response
25 is necessary or appropriate. To the extent a response is required, PacifiCorp denies the
26 allegations of Paragraph 200.

1 201.

2 The allegations in Paragraph 201 consist of conclusions of law to which no response
3 is necessary or appropriate. To the extent a response is required, PacifiCorp denies the
4 allegations of Paragraph 201 as to PacifiCorp and lacks knowledge or information sufficient
5 to form a belief about the allegations of Paragraph 201 as to Plaintiffs and on that basis
6 denies them.

7 202.

8 The allegations in Paragraph 202 consist of conclusions of law to which no response
9 is necessary or appropriate. To the extent a response is required, PacifiCorp denies the
10 allegations of Paragraph 202 as to PacifiCorp and lacks knowledge or information sufficient
11 to form a belief about the allegations of Paragraph 202 as to Plaintiffs and on that basis
12 denies them.

13 203.

14 The allegations in Paragraph 203 consist of conclusions of law to which no response
15 is necessary or appropriate. To the extent a response is required, PacifiCorp denies the
16 allegations of Paragraph 203.

17 204.

18 The allegations in Paragraph 204 consist of conclusions of law to which no response
19 is necessary or appropriate. To the extent a response is required, PacifiCorp denies the
20 allegations of Paragraph 204.

21 205.

22 The allegations in Paragraph 205 consist of conclusions of law to which no response
23 is necessary or appropriate. To the extent a response is required, PacifiCorp denies the
24 allegations of Paragraph 205.

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1 206.

2 The allegations in Paragraph 206 consist of conclusions of law to which no response
3 is necessary or appropriate. To the extent a response is required, PacifiCorp denies the
4 allegations of Paragraph 206.

5 207.

6 The allegations in Paragraph 207 consist of conclusions of law to which no response
7 is necessary or appropriate. To the extent a response is required, PacifiCorp denies the
8 allegations of Paragraph 207.

9 208.

10 The allegations in Paragraph 208 consist of conclusions of law to which no response
11 is necessary or appropriate. To the extent a response is required, PacifiCorp denies the
12 allegations of Paragraph 208 as to PacifiCorp and lacks knowledge or information sufficient
13 to form a belief about the allegations of Paragraph 208 as to Plaintiffs and on that basis
14 denies them.

15 209.

16 In response to Paragraph 209, PacifiCorp incorporates its responses to Paragraphs 1
17 to 208.

18 210.

19 The allegations in Paragraph 210 consist of conclusions of law to which no response
20 is necessary or appropriate. To the extent a response is required, PacifiCorp denies the
21 allegations of Paragraph 210.

22 211.

23 The allegations in Paragraph 211 consist of conclusions of law to which no response
24 is necessary or appropriate. To the extent a response is required, PacifiCorp denies the
25 allegations of Paragraph 211 as to PacifiCorp and lacks knowledge or information sufficient
26

1 to form a belief about the allegations of Paragraph 211 as to Plaintiffs and on that basis
2 denies them.

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4 212.

5 The allegations in Paragraph 212 consist of conclusions of law to which no response
6 is necessary or appropriate. To the extent a response is required, PacifiCorp denies the
7 allegations of Paragraph 212.

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9 213.

10 In response to Paragraph 213, PacifiCorp incorporates its responses to Paragraphs 1
11 to 212.

12
13 214.

14 The allegations in Paragraph 214 consist of conclusions of law to which no response
15 is necessary or appropriate. To the extent a response is required, PacifiCorp lacks knowledge
16 or information sufficient to form a belief about the allegations of Paragraph 214 and on that
17 basis denies them.

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19 215.

20 The allegations in Paragraph 215 consist of conclusions of law to which no response
21 is necessary or appropriate. To the extent a response is required, PacifiCorp denies the
22 allegations of Paragraph 215.

23
24 216.

25 The allegations in Paragraph 216 consist of conclusions of law to which no response
26 is necessary or appropriate. To the extent a response is required, PacifiCorp denies the
27 allegations of Paragraph 216.

28
29 217.

30 The allegations in Paragraph 217 consist of conclusions of law to which no response
31 is necessary or appropriate. To the extent a response is required, PacifiCorp denies the
32 allegations of Paragraph 217.

1 218.

2 The allegations in Paragraph 218 consist of conclusions of law to which no response
3 is necessary or appropriate. To the extent a response is required, PacifiCorp denies the
4 allegations of Paragraph 218.

5 219.

6 The allegations in Paragraph 219 consist of conclusions of law to which no response
7 is necessary or appropriate. To the extent a response is required, PacifiCorp denies the
8 allegations of Paragraph 219 as to PacifiCorp and lacks knowledge or information sufficient
9 to form a belief about the allegations of Paragraph 219 as to Plaintiffs and on that basis
10 denies them.

11 220.

12 The allegations in Paragraph 220 consist of conclusions of law to which no response
13 is necessary or appropriate. To the extent a response is required, PacifiCorp lacks knowledge
14 or information sufficient to form a belief about the allegations of Paragraph 220 and on that
15 basis denies them.

16 221.

17 The allegations in Paragraph 221 consist of conclusions of law to which no response
18 is necessary or appropriate. To the extent a response is required, PacifiCorp denies the
19 allegations of Paragraph 221.

20 222.

21 In response to Paragraph 222, PacifiCorp incorporates its responses to Paragraphs 1
22 to 221.

23 223.

24 PacifiCorp denies the allegations of Paragraph 223.

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1 224.

2 The allegations in Paragraph 224 consist of conclusions of law to which no response
3 is necessary or appropriate. To the extent a response is required, PacifiCorp denies the
4 allegations of Paragraph 224.

5 225.

6 The allegations in Paragraph 225 consist of conclusions of law to which no response
7 is necessary or appropriate. To the extent a response is required, PacifiCorp denies the
8 allegations of Paragraph 225.

9 226.

10 The allegations in Paragraph 226 consist of conclusions of law to which no response
11 is necessary or appropriate. To the extent a response is required, PacifiCorp denies the
12 allegations of Paragraph 226.

13 227.

14 The allegations in Paragraph 227 consist of conclusions of law to which no response
15 is necessary or appropriate. To the extent a response is required, PacifiCorp denies the
16 allegations of Paragraph 227 as to PacifiCorp and lacks knowledge or information sufficient
17 to form a belief about the allegations of Paragraph 227 as to Plaintiffs and on that basis
18 denies them.

19 228.

20 The allegations in Paragraph 228 consist of conclusions of law to which no response
21 is necessary or appropriate. To the extent a response is required, PacifiCorp denies the
22 allegations of Paragraph 228 as to PacifiCorp and lacks knowledge or information sufficient
23 to form a belief about the allegations of Paragraph 228 as to Plaintiffs and on that basis
24 denies them.

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1 229.

2 The allegations in Paragraph 229 consist of conclusions of law to which no response
3 is necessary or appropriate. To the extent a response is required, PacifiCorp denies the
4 allegations of Paragraph 229 as to PacifiCorp and lacks knowledge or information sufficient
5 to form a belief about the allegations of Paragraph 229 as to Plaintiffs and on that basis
6 denies them.

7 230.

8 The allegations in Paragraph 230 consist of conclusions of law to which no response
9 is necessary or appropriate. To the extent a response is required, PacifiCorp denies the
10 allegations of Paragraph 230 as to PacifiCorp and lacks knowledge or information sufficient
11 to form a belief about the allegations of Paragraph 230 as to Plaintiffs and on that basis
12 denies them.

13 231.

14 The allegations in Paragraph 231 consist of conclusions of law to which no response
15 is necessary or appropriate. To the extent a response is required, PacifiCorp denies the
16 allegations of Paragraph 231.

17 232.

18 In response to Paragraph 232, PacifiCorp incorporates its responses to Paragraphs 1
19 to 231.

20 233.

21 The allegations in Paragraph 233 consist of conclusions of law to which no response
22 is necessary or appropriate. To the extent a response is required, PacifiCorp denies the
23 allegations of Paragraph 233 as to PacifiCorp and lacks knowledge or information sufficient
24 to form a belief about the allegations of Paragraph 233 as to Plaintiffs and on that basis
25 denies them.

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1 234.

2 The allegations in Paragraph 234 consist of conclusions of law to which no response
3 is necessary or appropriate. To the extent a response is required, PacifiCorp denies the
4 allegations of Paragraph 234 as to PacifiCorp and lacks knowledge or information sufficient
5 to form a belief about the allegations of Paragraph 234 as to Plaintiffs and on that basis
6 denies them.

7 235.

8 The allegations in Paragraph 235 consist of conclusions of law to which no response
9 is necessary or appropriate. To the extent a response is required, PacifiCorp lacks knowledge
10 or information sufficient to form a belief about the allegations of Paragraph 235 and on that
11 basis denies them.

12 236.

13 The allegations in Paragraph 236 consist of conclusions of law to which no response
14 is necessary or appropriate. To the extent a response is required, PacifiCorp denies the
15 allegations of Paragraph 236 as to PacifiCorp and lacks knowledge or information sufficient
16 to form a belief about the allegations of Paragraph 236 as to Plaintiffs and on that basis
17 denies them.

18 237.

19 The allegations in Paragraph 237 consist of conclusions of law to which no response is
20 necessary or appropriate. To the extent a response is required, PacifiCorp denies the allegations
21 of Paragraph 237 as to PacifiCorp and lacks knowledge or information sufficient to form a
22 belief about the allegations of Paragraph 237 as to Plaintiffs and on that basis denies them.

23 238.

24 The allegations in Paragraph 238 consist of conclusions of law to which no response
25 is necessary or appropriate. To the extent a response is required, PacifiCorp denies the
26 allegations of Paragraph 238.

1 239.

2 The allegations in Paragraph 239 consist of conclusions of law to which no response
3 is necessary or appropriate. To the extent a response is required, PacifiCorp denies the
4 allegations of Paragraph 239 as to PacifiCorp and lacks knowledge or information sufficient
5 to form a belief about the allegations of Paragraph 239 as to Plaintiffs and on that basis
6 denies them.

7 240.

8 In response to Paragraph 240, PacifiCorp incorporates its responses to Paragraphs 1
9 to 239.

10 241.

11 PacifiCorp admits that Paragraph 241 accurately quotes Oregon Constitution, Article
12 I, Section 18.

13 242.

14 PacifiCorp admits that Paragraph 242 accurately quotes Oregon Constitution, Article
15 XI, Section 4.

16 243.

17 The allegations in Paragraph 243 consist of conclusions of law to which no response
18 is necessary or appropriate. To the extent a response is required, PacifiCorp lacks knowledge
19 or information sufficient to form a belief about the allegations of Paragraph 243 and on that
20 basis denies them.

21 244.

22 PacifiCorp admits that it can, in some circumstances, condemn property in Oregon.
23 PacifiCorp denies the allegations of Paragraph 244 as to Pacific Power, which is an assumed
24 business name of PacifiCorp.

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1 245.

2 The allegations in Paragraph 245 consist of conclusions of law to which no response
3 is necessary or appropriate. To the extent a response is required, PacifiCorp denies the
4 allegations of Paragraph 245.

5 246.

6 PacifiCorp admits that it owns and operates power line infrastructure in Oregon. The
7 remaining allegations in Paragraph 246 consist of conclusions of law to which no response is
8 necessary or appropriate. To the extent a response is required, PacifiCorp denies the
9 remaining allegations of Paragraph 246.

10 247.

11 The allegations in Paragraph 247 consist of conclusions of law to which no response
12 is necessary or appropriate. To the extent a response is required, PacifiCorp denies the
13 allegations of Paragraph 247 as to PacifiCorp and lacks knowledge or information sufficient
14 to form a belief about the allegations of Paragraph 247 as to Plaintiffs and on that basis
15 denies them.

16 248.

17 The allegations in Paragraph 248 consist of conclusions of law to which no response
18 is necessary or appropriate. To the extent a response is required, PacifiCorp denies the
19 allegations of Paragraph 248 as to PacifiCorp and lacks knowledge or information sufficient
20 to form a belief about the allegations of Paragraph 248 as to Plaintiffs and on that basis
21 denies them.

22 249.

23 The allegations in Paragraph 249 consist of conclusions of law to which no response
24 is necessary or appropriate. To the extent a response is required, PacifiCorp denies the
25 allegations of Paragraph 249 as to PacifiCorp and lacks knowledge or information sufficient
26

1 to form a belief about the allegations of Paragraph 249 as to Plaintiffs and on that basis
2 denies them.

3
4 250.

5 The allegations in Paragraph 250 consist of conclusions of law to which no response
6 is necessary or appropriate. To the extent a response is required, PacifiCorp lacks knowledge
7 or information sufficient to form a belief about the allegations of Paragraph 250 and on that
8 basis denies them.

9
10 251.

11 The allegations in Paragraph 251 consist of conclusions of law to which no response
12 is necessary or appropriate. To the extent a response is required, PacifiCorp denies the
13 allegations of Paragraph 251 as to PacifiCorp and lacks knowledge or information sufficient
14 to form a belief about the allegations of Paragraph 251 as to Plaintiffs and on that basis
15 denies them.

16
17 252.

18 The allegations in Paragraph 252 consist of conclusions of law to which no response
19 is necessary or appropriate. To the extent a response is required, PacifiCorp denies the
20 allegations of Paragraph 252.

21
22 253.

23 In response to Paragraph 253, PacifiCorp incorporates its responses to Paragraphs 1
24 to 252.

25
26 254.

27 Paragraph 254 recites the nature of Plaintiffs' allegations and does not require a
28 response. To the extent a response is required, PacifiCorp denies the allegations of
29 Paragraph 254.

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1 255.

2 Paragraph 255 recites the nature of Plaintiffs' allegations and does not require a
3 response. To the extent a response is required, PacifiCorp denies the allegations of
4 Paragraph 255.

5 256.

6 Paragraph 256 recites the nature of Plaintiffs' allegations and does not require a
7 response. To the extent a response is required, PacifiCorp denies the allegations of
8 Paragraph 256.

9 257.

10 Paragraph 257 recites the nature of Plaintiffs' allegations and does not require a
11 response. To the extent a response is required, PacifiCorp denies the allegations of
12 Paragraph 257.

13 258.

14 Paragraph 258 recites the nature of Plaintiffs' allegations and does not require a
15 response. To the extent a response is required, PacifiCorp denies the allegations of
16 Paragraph 258.

17 **GENERAL DENIAL**

18 259.

19 PacifiCorp expressly denies each and every allegation in the Complaint that is not
20 expressly admitted herein.

21 **AFFIRMATIVE DEFENSES**

22 PacifiCorp expressly incorporates all allegations of its Answer as if fully set forth in
23 each of the following Affirmative Defenses.

24 Without admitting any wrongful conduct on the part of PacifiCorp, and without
25 admitting that Plaintiffs have suffered any loss, damage, or injury, PacifiCorp alleges the
26 following Affirmative Defenses to the Complaint. By designating the following as

1 Affirmative Defenses, PacifiCorp does not in any way waive or limit any defenses which are
2 or may be raised by the denial, allegations, and averments set forth herein. Certain
3 Affirmative Defenses are asserted for completeness and refer to facts and proof which also
4 negate required elements of Plaintiffs' claims, and by raising such Affirmative Defenses
5 PacifiCorp does not admit that Plaintiffs lack the burden of proof and/or the burden of
6 persuasion for any or all facts underlying any of those Affirmative Defenses or suggest that
7 Plaintiffs are not required to carry the burden as to such elements.

8 The Affirmative Defenses are pleaded in the alternative, are raised to preserve the
9 rights of PacifiCorp to assert such Affirmative Defenses, and are without prejudice to
10 PacifiCorp's ability to raise other and further Affirmative Defenses.

11 Investigations into the events alleged in the Complaint are currently being undertaken
12 by the parties as well as by third parties. In addition to the Affirmative Defenses set forth
13 below, PacifiCorp reserves the right to allege additional Affirmative Defenses as they
14 become known, or as they evolve during the litigation, and to amend this Answer
15 accordingly.

16 **FIRST AFFIRMATIVE DEFENSE**

17 **(Failure to State a Claim)**

18 260.

19 Plaintiffs' complaint and each of the claims alleged therein fail to state a claim upon
20 which any relief can be granted.

21 **SECOND AFFIRMATIVE DEFENSE**

22 **(Failure to Mitigate Damages)**

23 261.

24 Plaintiffs may be barred from recovering damages, in whole or in part, for the harm
25 alleged in the complaint by reason of their failure to mitigate such alleged damages.

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THIRD AFFIRMATIVE DEFENSE

(No Proximate Cause)

262.

Plaintiffs may be barred from recovering damages, in whole or in part, because PacifiCorp’s acts or omissions were not the proximate cause of Plaintiffs’ injuries.

FOURTH AFFIRMATIVE DEFENSE

(Intervening and/or Superseding Cause)

263.

Plaintiffs may be barred from recovery because the injuries or losses they sustained were caused, in whole or in part, by the unforeseeable intervening or superseding acts or omissions of others over whom PacifiCorp had no control and for whose conduct PacifiCorp is not responsible, or other unforeseeable, independent, intervening, or superseding event(s) or circumstance(s) beyond the control of PacifiCorp.

FIFTH AFFIRMATIVE DEFENSE

(Negligence/Fault of Third Parties)

264.

Plaintiffs may be barred from recovery because the injuries or losses they sustained were caused, in whole or in part, by the negligent, reckless, or intentional unforeseeable acts of third parties who PacifiCorp had neither the right, duty or opportunity to exercise control over, and who acted without the knowledge, participation, approval, or ratification of PacifiCorp.

SIXTH AFFIRMATIVE DEFENSE

(Failure to Name Necessary Defendants)

265.

Plaintiffs’ claims are subject to dismissal for Plaintiffs’ failure to join indispensable parties.

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SEVENTH AFFIRMATIVE DEFENSE

(Unavoidable Accident / Act of God)

266.

Plaintiffs’ damages, if any, were caused by an unavoidable accident or Act of God, which PacifiCorp did not control, could not predict, and from which it did not have a duty to protect the plaintiffs.

EIGHTH AFFIRMATIVE DEFENSE

(Compliance with Duty of Care)

267.

Plaintiffs’ claims are barred because PacifiCorp complied with the law and acted reasonably with the intent to obey the law and such compliance demonstrates that PacifiCorp exercised due care and reasonable prudence.

NINTH AFFIRMATIVE DEFENSE

(Compliance with Industry Standards)

268.

Plaintiffs’ claims are barred because PacifiCorp acted in conformity with industry standards based upon the state of knowledge existing at the time alleged in the complaint. .

TENTH AFFIRMATIVE DEFENSE

(No Negligence)

269.

Plaintiffs’ claims are barred, in whole or in part, because PacifiCorp was not negligent, and no conduct of PacifiCorp resulted in any injury or damage to Plaintiffs.

ELEVENTH AFFIRMATIVE DEFENSE

(Justification/Necessity)

270.

In connection with the acts and omissions alleged by Plaintiffs, PacifiCorp was

1 justified in its actions or acting out of necessity; therefore Plaintiffs may not recover against
2 PacifiCorp.

3 **TWELFTH AFFIRMATIVE DEFENSE**
4 **(Contributory/Comparative Negligence)**

5 271.

6 At all times mentioned herein Plaintiffs were or may have been wholly or partially at
7 fault, and conducted themselves so as to contribute partially, substantially, or wholly to their
8 alleged injuries and damages, if any. The fault of Plaintiffs bars, in whole or in part, the
9 damages which Plaintiffs seek to recover herein.

10 **THIRTEENTH AFFIRMATIVE DEFENSE**
11 **(Setoff for Insurance Payments)**

12 272.

13 Plaintiffs may not recover on claims of damages or losses paid as a result of coverage
14 under any applicable policy of insurance.

15 **FOURTEENTH AFFIRMATIVE DEFENSE**
16 **(Setoff for Other Collateral Sources)**

17 273.

18 Plaintiffs may not recover on claims of damages or losses paid by any other sources.

19 **FIFTEENTH AFFIRMATIVE DEFENSE**
20 **(Statutory Limit on Damages)**

21 274.

22 Plaintiffs may not recover damages, in whole or part, to the extent that ORS 477.089
23 prohibits such recovery.

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SIXTEENTH AFFIRMATIVE DEFENSE

(Requirement to Show Negligence)

275.

To the extent Plaintiffs seek to recover without showing that Defendants were negligent or a higher degree of fault, Plaintiffs’ claims are barred, in whole or in part, by ORS 477.092.

SEVENTEENTH AFFIRMATIVE DEFENSE

(No Duty to De-Energize)

276.

To the extent Plaintiffs’ claims rest on PacifiCorp’s alleged failure to de-energize its power lines, Plaintiffs’ claims fail because Oregon law does not impose an affirmative duty to proactively de-energize power lines.

EIGHTEENTH AFFIRMATIVE DEFENSE

(Authorization by Statute or Regulation)

277.

Plaintiffs’ claims are barred, in whole or in part, because the actions and conditions complained of by Plaintiffs are expressly authorized by the State of Oregon and the Oregon Public Utilities Commission.

NINETEENTH AFFIRMATIVE DEFENSE

(Compliance with Statutes and Regulations)

278.

Plaintiffs’ claims are barred, in whole or in part, because Defendants neither acted nor failed to act in a manner that violated any statute, ordinance, or regulation.

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1 **TWENTIETH AFFIRMATIVE DEFENSE**

2 **(Negligence Per Se)**

3 279.

4 Plaintiffs' claim for negligence per se is barred because none of the relevant statutes
5 or regulations, including ORS 757.020 or applicable rules, regulations or orders by the
6 Oregon Public Utilities Commission, fix the standard of conduct applicable to PacifiCorp or
7 were implemented to prevent the harm Plaintiffs allege or to protect the class of persons
8 including Plaintiffs.

9 **TWENTY-FIRST AFFIRMATIVE DEFENSE**

10 **(Public Benefit)**

11 280.

12 Plaintiffs' claim for nuisance is barred, in whole or in part, because Defendants
13 provide a public benefit or socially useful service.

14 **TWENTY-SECOND AFFIRMATIVE DEFENSE**

15 **(Waiver)**

16 281.

17 Plaintiffs' claims are barred, in whole or in part, under the doctrine of waiver.

18 **TWENTY-THIRD AFFIRMATIVE DEFENSE**

19 **(No Punitive Damages—Unconstitutionality)**

20 282.

21 To the extent Plaintiffs reserve the right to assert a claim for punitive damages,
22 PacifiCorp alleges that such claim for punitive damages is barred, in whole or in part,
23 because it violates PacifiCorp's state and federal constitutional rights, including but not
24 limited to due process, equal protection, and ex post facto provisions; the Fourth, Fifth, Sixth,
25 Eighth, and Fourteenth Amendments; and the right not to be subjected to excessive awards
26 and multiple punishments; and that any claim for punitive damages is limited by state and

1 federal law, including but not limited to the U.S. Supreme Court’s decision in *State Farm*
2 *Mutual Automobile Insurance Company v. Campbell*, 538 U.S. 408 (2003).

3 **TWENTY-FOURTH AFFIRMATIVE DEFENSE**

4 **(No Punitive Damages—Insufficient Facts)**

5 283.

6 To the extent Plaintiffs reserve the right to assert a claim for punitive damages,
7 PacifiCorp alleges that such claim for punitive damages is barred, in whole or in part,
8 because the allegations in the Complaint fail to state facts sufficient to support an award of
9 exemplary or punitive damages or other statutory fines or penalties against PacifiCorp.

10 **TWENTY-FIFTH AFFIRMATIVE DEFENSE**

11 **(Offset)**

12 284.

13 Plaintiffs may not recover damages, in whole or in part, to the extent that PacifiCorp
14 has provided, or may provide, compensation of any kind for damages to Plaintiffs and/or
15 their insurers. PacifiCorp alleges that such compensation may constitute an offset.

16 **TWENTY-SIXTH AFFIRMATIVE DEFENSE**

17 **(Class Action Not Maintainable—Improper Venue)**

18 285.

19 Plaintiffs’ class action claims are barred because venue is not proper in Multnomah
20 County under ORS 14.040.

21 **TWENTY-SEVENTH AFFIRMATIVE DEFENSE**

22 **(Class Action Not Maintainable—No Common Questions)**

23 286.

24 Plaintiffs’ class action claims are barred because there are no questions of law or fact
25 common to the class.

26 ///

1 **TWENTY-EIGHTH AFFIRMATIVE DEFENSE**

2 **(Class Action Not Maintainable—No Typicality)**

3 287.

4 Plaintiffs' class action claims are barred because the claims of the representative
5 parties are not typical of the claims of the class.

6 **TWENTY-NINTH AFFIRMATIVE DEFENSE**

7 **(Class Action Not Maintainable—Class Action Not Superior)**

8 288.

9 Plaintiffs' class action claims are barred because a class action is not superior to other
10 available methods for the fair and efficient adjudication of this controversy, including
11 because prosecution of separate actions by individual members would not create a risk of
12 inconsistent of varying adjudications which would establish incomparable standards of
13 conduct and would not be dispositive of the interests of other members not parties to the
14 adjudications, and would not substantially impair or impede their ability to protect their
15 interests; because questions of law or fact common to members of the class do not
16 predominate over questions affecting only individual members; because members of the class
17 have a greater interest in individually controlling the prosecution of separate actions; because
18 other litigations have commenced and are pending concerning the same controversy; because
19 Multnomah County lacks an interest in this class action compared to the individual
20 adjudications already commenced in other fora; because the difficulties likely to be
21 encountered in management of a class action will be eliminated or significantly reduced if the
22 controversy is adjudicated by other available means; and because many individual class
23 members will have insufficient interest in the amounts or interests involved, in view of the
24 complexities of the issues and the expenses of the litigation, to afford significant relief to
25 class members.

26 ///

1 PRAYER FOR RELIEF

2 WHEREFORE, having fully answered the Complaint, PacifiCorp requests that the
3 Court enter judgment in their favor on all claims asserted by Plaintiffs in their complaint,
4 award PacifiCorp its costs in this action, and grant such other relief as the Court deems just
5 and equitable.

6 DATED: May 27, 2021.

7 STOEL RIVES LLP

8 /s/ Per A. Ramfjord

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23 *Pacific Power*

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that I served a true and correct copy of the foregoing document titled
3 **ANSWER AND AFFIRMATIVE DEFENSES OF DEFENDANTS PACIFICORP AND**
4 **PACIFIC POWER** on the date indicated below by

- 5 mailing with postage prepaid. email (courtesy copy only).
- 6 hand delivery. email pursuant to ORCP 9 G agreement among
7 parties/counsel dated October 29, 2020
consenting to service via email.
- 8 overnight delivery. eService via Odyssey File & Serve (if
9 registered)

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

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25 DATED: May 27, 2021.

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