

May 13, 2025

The Honorable Jason Kropf, Chair
Oregon House Judiciary Committee
Oregon State Capitol
900 Court Street, NE
Salem, OR 97301

Senate Bill 926A – Opposition

Chair Kropf and Members of the Committee:

PacifiCorp is an investor-owned utility that provides safe and reliable electric service to more than 620,000 customers across Oregon under the trade name Pacific Power, primarily in historically underserved rural parts of the state. Pacific Power is part of PacifiCorp, a multi-state investor-owned utility that serves two million customers in six western states.

The 2020 Labor Day fires were an undeniable tragedy. Resolution has been emotional and frustrating for all those affected. What we know is that there are no winners in wildfire.

Everyone loses.

Considering this catastrophe, a record-breaking 2024 wildfire season that saw nearly 2 million acres burned and a 2025 wildfire season that government officials have warned may be as devastating as last year's, we should be leading a broad-based, collaborative dialogue about how Oregon wants to account for and manage wildfire going forward. Instead, we are considering a piece of targeted, punitive, unprecedented and unconstitutional legislation that seeks to have the Legislature pick winners and losers in ongoing private litigation.

It is critical to acknowledge that on March 19, 2025, the State of Oregon's own fire expert, the Oregon Department of Forestry (ODF), acting on behalf of the State of Oregon, released its official investigation of the 2020 Santiam Canyon fire, concluding that utility-caused spot fires in the canyon were promptly suppressed and did not contribute to the spread of large fires in the Santiam Canyon. The Santiam Canyon fire represents the majority of plaintiffs in the ongoing *James* class litigation. We know this is discouraging for impacted individuals, but utilities cannot be insurers of last resort in wildfire cases for property damage they simply did not cause.

Nonetheless, the proposed legislation attempts to violate the separation of powers by retroactively managing pending class litigation currently before the Oregon judicial branch. This policy choice goes well beyond utilities or wildfire. This policy sets a precedent that any interested party can influence the Legislature to pick sides in an ongoing litigation proceeding.

Pacific Power opposes Senate Bill 926A because it does not achieve any meaningful, comprehensive policy objective.

1. **Customer Affordability** – This bill compromises customer affordability. It makes operating a utility in Oregon more expensive for customers by restricting access to crucial investments and contributing to higher costs, ultimately impacting customer rates and reliability. This bill also creates a disincentive for utilities to take prudent steps in fulfilling their legal obligation to serve. For example, the bill takes aim at the restoration of service in the wake of a catastrophic weather event. System restoration, no matter the cause of an outage, is critical to a functioning society and the perception of restoration activities should not be colored by circumstances that may be unknown for several years after the fact. Additionally, this bill objects to the settlement of claims even in circumstances where reducing costs through reasonable resolution is a prudent course of action. This is wrong-footed and, in a broader inflationary environment, an improper time for the legislature to have utility customers bear more, not less, risk.
2. **Clean Energy, Wildfire Mitigation and Reliability** – This bill dramatically constrains the ability of utilities to access and raise the required capital in the debt and equity markets at reasonable costs so they can invest in clean energy to meet Oregon’s energy policy goals. This includes both the development of clean generation and necessary transmission investment to access those resources. Even more fundamentally, the bill’s impacts on utility financial health means that investment in reliability to support natural load growth could be at risk, harming the state’s ability to not only support well-documented increasing demand (e.g., large loads), but also economic and community development more broadly. As part of their wildfire mitigation plans, utilities across the state are making investments to improve reliability and reduce outage impacts in an extreme weather environment. These investments also rely on access to capital markets. Utilities are the backbones of our communities in support of living wage jobs, housing growth and overall economic resilience. This bill sets back Oregon as a leader in clean energy and puts reliability at significant risk in the near- and long-term.
3. **Trying to Force Settlement and Overturning Decisions by the Court** – This bill expressly violates the separation of powers by attacking the judicial branch’s treatment of pending wildfire litigation. If the policy objective of this bill is to have the company capitulate in the ongoing *James* class action lawsuit, the calamity of that goal is clear. But even setting that aside, this bill seeks to specifically overturn rulings by the trial court in the ongoing *James* litigation and to short-circuit Pacific Power’s constitutionally protected due process rights.

Importantly, it should be recognized that the *James* litigation is in a procedural posture that class counsel proposed and the trial court adopted wholesale. The challenge of managing wildfire litigation as a class action is well-documented, as is advocating for a class that involves four geographically distinct fires:

- Echo Mountain Complex Fire (Lincoln County)
- South Obenchain Fire (Jackson County)
- Two Four Two Fire (Klamath County)
- Beachie Creek Fire (which includes the area sometimes referred to as the Santiam Canyon fire) (Marion and Linn Counties).

Wildfires are not fit for class treatment because of the individualized nature of the facts, circumstances and wildfire impacts, which ultimately makes settlement more difficult, not less.

Class counsel has not delivered resolution for their clients because of the very class litigation process they advocated for and were granted by the trial court. In non-class litigation, parties have obtained efficient and reasonable settlements. The data is clear. A few examples are below:

- To date, Pacific Power has worked with nearly a dozen law firms to settle over 1,000 claims associated with the Slater, Archie Creek, Two-Four-Two, Obenchain, Echo Mountain Complex and Beachie Creek Fires. In the case of the Slater and Archie Creek Fires, the company has resolved all individual plaintiff claims. Neither fire was certified as a class action.
- In the case of the Echo Mountain Fire, the company has settled with over 400 plaintiffs who opted out of the *James* class.

These settlements are the result of negotiations culminating in meaningful compensation to help those affected by the fires to recover, rebuild and move forward. Pacific Power has been and remains committed to settling all reasonable claims.

4. **Financial Harm** – If the policy objective of this bill is an attempt to cause catastrophic financial harm to Oregon’s investor-owned utilities, then that goal is misplaced. While it remains to be determined whether the bill will cause catastrophic financial harm to Oregon’s investor-owned utilities, the fact that a bill can be interpreted as an attempt to bring about such a devastating outcome is bad for customers, impacted individuals and the future of utility investment in the state. Financially weak, unreliable and distressed utilities will not be able to attract the investment needed from debt and equity investors, which will significantly impact

the economic health of the Oregon business community and threaten the well-being of Oregon electric customers.

The Legislature has an opportunity to lead on critical wildfire issues as other states across the West have done in the last 12 months, including, but not limited to, Arizona, Hawaii, Idaho, Montana, Utah, Washington and Wyoming. Financially healthy utilities are essential to the state's continued work to ensure economically resilient communities, a stable quality of life, living-wage jobs and economic growth. Senate Bill 926A is not that solution.

Pacific Power appreciates the opportunity to provide comments on Senate Bill 926A and remains committed to a constructive policy to address catastrophic wildfire. We look forward to participating in conversations on how to do just that.

Please contact Annette Price at 971-284-6996, Elizabeth Howe at 503-910-3270 or Shawn Miller at 503-551-7738 if you have questions.