

SB 926A PROTECTS RATEPAYERS AND FIRE VICTIMS

Chair Kropf, Vice Chairs Chotzen and Wallan, and Members of the Committee:

My name is Cody Berne. I grew up in Beaverton, fought wildland fire for three seasons during and after college, and served as a police officer for six years with the Portland Police Bureau. I then went to law school, worked at a large defense firm in Portland and as a deputy district attorney in Multnomah County. Today, I have the honor of representing thousands of people who are still seeking justice nearly five years after PacifiCorp caused fires all over our state during the Labor Day 2020 storm.

When deciding whether to protect ratepayers and fire victims by passing SB 926A, you might consider PacifiCorp's long history of misconduct and mistreatment of fire victims.

First, here's some background about PacifiCorp and its owner, Berkshire Hathaway:

- i. Berkshire is worth more than \$1 trillion. It has more cash than the entire GDP of Oregon—over \$300 billion.
- ii. PacifiCorp is worth more than \$10 billion, according to its financial statements. An Oregon tax court opinion from two years ago pegged its value at around \$17 billion, as of 2020.
- iii. Instead of protecting Oregonians from power line-caused fires, PacifiCorp paid billions of dollars in dividends to Berkshire.

A. PacifiCorp Hid Evidence that It Was Warned to Shut Off the Power

For more than 2.5 years after the Labor Day 2020 Fires, PacifiCorp hid that the Oregon Department of Forestry's Chief of Fire Protection and the Governor's Chief of Staff warned PacifiCorp in a phone call on Labor Day about the extreme danger of power lines starting fires during the storm. PacifiCorp claimed during the call that it had things under control. By that time, it had already ignited the Two Four Two Fire near Chiloquin. Over the next few hours, PacifiCorp started fire after fire all over our state.

B. Doing Nothing Is the Same as Putting PacifiCorp Before Ratepayers and Fire Victims

PacifiCorp has weaponized the legal process to delay, mistreat fire victims, and invent excuses. Here are a few examples:

- i. **Dozens Have Died:** Dozens of fire victims have passed away in the nearly five years since PacifiCorp caused the fires. These people were never compensated for what PacifiCorp did to them. That is PacifiCorp's strategy—drag lawsuits out so people die or give up.
- ii. **Insulting Fire Survivors:** Before and during trials, PacifiCorp has tried to embarrass fire victims by insulting them for being poor, questioning them about marital problems, and interrogating them about traumatic events they've experienced, including sexual assaults.
- iii. **Medical Records:** PacifiCorp is forcing fire victims to turn over their private, confidential medical records. Imagine going to see your doctor and having to turn over those records to the billion-dollar corporation that burned down your home.
- iv. **Psychological Testing:** Today, PacifiCorp is forcing nearly every fire victim selected for a trial to get tested by psychologists hired by PacifiCorp. The testing goes as long as seven hours. The psychologists then write reports, commenting about everything from the fire victim's childhood to their choice of clothing during the test.
- v. **Netflix:** PacifiCorp claimed that one of the reasons it left the power on during the Labor Day 2020 storm was so people could watch Netflix.
- vi. **Misrepresentations:** PacifiCorp hides behind misrepresentations. Along with its Netflix defense, PacifiCorp said that it had to leave the power on so stoplights worked. There were no stoplights in the places in Chiloquin, Eagle Point, Otis, and the Santiam Canyon that PacifiCorp burned up. PacifiCorp also sometimes touts that it has settled with some fire victims. It leaves out that many of these people were in California, where the laws protect fire victims. Many more of these settlements were for pennies on the dollar with insurance companies. Berkshire owns major insurance and reinsurance businesses. And it was recently made public in a court hearing that PacifiCorp has declined to mediate with Labor Day Fires survivors and even recently cancelled at least one mediation session that was scheduled.

C. SB 926A Does Not Discourage Settlements or Interfere with Appeals

SB 926A encourages settlements. It also does not prevent an investor-owned power company from appealing after a trial.

During the continuation of the SB 926A hearing in the House Judiciary Committee on May 13, 2025, lobbyists hired by opponents of the bill argued the opposite. They claimed that the bill discourages settlements. That is incorrect. The bill provides in Sections 2, 3, and 5 that a court or jury must have found that a wildfire resulted from the negligence or higher degree of fault by the electric company. Section 4 similarly requires that a plaintiff has established that the fire resulted from negligence or a higher degree of fault.

Most settlements in civil litigation take place before trial, which means there is no determination of fault. This also means SB 926A does not discourage settlement. For settlements after a trial in which a corporation has been found negligent or a higher degree of

fault, the company can still write settlement documents where it denies responsibility and resolve the case.

The lobbyists also suggested that SB 926A interferes with the appeal process. That too is incorrect. The bill does not in any way prevent a defendant from appealing or continuing an appeal. In fact, the bill is much like interest provisions that are already Oregon law and provide that interest accrues on a trial court judgment during the appeal process.

D. PacifiCorp Has a Long History of Misconduct

First, PacifiCorp puts profits before safety. In 2020, PacifiCorp's internal documents show it was involved in the Archie Creek Fire, Beachie Creek Fire, Echo Mountain Complex Fire, North Bank Fire, Pike Fire, Slater Fire, South Obenchain Fire, and Two Four Two Fire. PacifiCorp didn't clean up its act after 2020. In 2022, it ignited the deadly McKinney Fire in Northern California. A few years earlier, after another deadly power line fire, this time in Utah, the Federal Energy Regulatory Commission determined that thousands of miles of PacifiCorp's power lines were in such bad condition that they weren't safe to carry any electricity.

Second, PacifiCorp destroyed evidence, as part of a failed attempt to cover-up that it caused the Labor Day Fires. PacifiCorp admitted to a jury that it took its equipment and trees from where the fires started to the "dump." At the same time PacifiCorp was trying to hide evidence, its top lawyer swore under oath that he "directed PacifiCorp employees to conduct a confidential investigation" into the fires.

This isn't the first time PacifiCorp has been caught destroying evidence. In another Oregon case that did not involve PacifiCorp starting fires, a federal magistrate judge wrote, "[b]y contrast, I conclude that PacifiCorp possessed some improper motive for destroying the fuel scrubber... Consequently, I find that PacifiCorp's destruction of the fuel scrubber was tantamount to bad faith conduct...."

Third, PacifiCorp destroyed written records about what it knew, said, and discussed during the Labor Day Fires. PacifiCorp used a chat program to communicate in real time during the fires. All but a few dozen of the chats were lost when PacifiCorp purged the computer server where the chats were stored. One key chat from the Labor Day 2020 storm was inadvertently not deleted. A PacifiCorp fire data scientist and senior engineer wrote:

Grechanuk, Pavel (PacifiCorp) 10:16 AM:

It looks like there is a ~~fire~~ in Lincoln City which also started under our transmission lines.

Like the ~~fire~~ is in the transmission corridor

Jones, Tyler (PacifiCorp) 10:21 AM:

yikes

where are you seeing this?

Grechanuk, Pavel (PacifiCorp) 10:22 AM:

There is a phone conference what I snuck my way onto haha

David Allen Emergency Management and other director levels

-and-

Grechanuk, Pavel (PacifiCorp) 10:26 AM:

this shit is crazy

There are just fires everywhere

<https://www.arcgis.com/home/webmap/viewer.html?webmap=df8bcc10430f48878b01c96e907a1fc3#!>

<https://www.arcgis.com/home/webmap/viewer.html?webmap=df8bcc10430f48878b01c96e907a1fc3#!>

Jones, Tyler (PacifiCorp) 10:28 AM:

yikes

apocalyptic looking

Grechanuk, Pavel (PacifiCorp) 10:29 AM:

Lol yeah I think shit is fucked across the board

Excuse my language

God the fires near our service territories are right underneath our lines....

Jones, Tyler (PacifiCorp) 10:29 AM:

lol

ugh

man this is going to get crazy

Fourth, courts have sanctioned PacifiCorp for violating orders. PacifiCorp tried to hide other internal records about how and where the fires started. An Oregon judge said in December 2022, “[t]he Court is troubled by PacifiCorp’s approach to discovery depositions, the Court’s orders on the scope of deposition testimony, application of the attorney-client privilege, the timeline for disclosure of documents.” The judge ultimately sanctioned PacifiCorp.

Fifth, PacifiCorp ignored regulators. The Oregon Public Utility Commission warned PacifiCorp’s CEO in 2019 and 2020 about PacifiCorp’s failure to keep trees off power lines. The PUC wrote to the CEO, “[t]he long term data shows the company’s vegetation management program is not adequately addressing the issue of tree contacts. The number of tree and

energized primary conductor contacts is disturbing....” PacifiCorp admitted in an internal email that the “[PUC] staff comments come off very damning. If this were to become a media story, we would need a very strong response.” PacifiCorp ignited the Labor Day 2020 fires a few weeks after receiving the second PUC letter.

SUPPORT SB 926A

None of this should be a surprise. This corporation has proven itself incapable of taking responsibility. It has acted cruelly toward thousands of Oregonians because it thinks its monopoly power gives it impunity. Without SB 926A, PacifiCorp will continue to delay and punish fire victims.

The bill prevents a large, private utility that has been found negligent for a fire from passing on the costs of its negligence to ratepayers. It also protects fire victims by ensuring that investors can’t take money out—and cause the corporation to become insolvent or unable to pay what it owes—before fire victims are compensated for the harm done to them.

Thank you for supporting SB 926A.

Sincerely,



Cody Berne