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**VIA ELECTRONIC FILING**

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

**Re: Docket UM 1909 – In the Matter of PUBLIC UTILITY COMMISSION OF OREGON, Investigation of the Scope of the Commission’s Authority to Defer Capital Costs.**

Attention Filing Center:

Attached for filing in the above-captioned docket is an electronic copy of Portland General Electric Company’s Supplemental Closing Brief.

Please contact this office with any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Katherine McDowell", is written over a horizontal line.

Katherine McDowell

Attachment

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

**UM 1909**

In the Matter of

PUBLIC UTILITY COMMISSION OF  
OREGON

Investigation of the Scope of the Commission's  
Authority to Defer Capital Costs

PORTLAND GENERAL ELECTRIC  
COMPANY'S SUPPLEMENTAL  
CLOSING BRIEF

**I. INTRODUCTION AND SUMMARY**

This Supplemental Closing Brief is submitted on behalf of Portland General Electric Company ("PGE"). The Joint Utilities' Closing Brief explains why the plain language and legislative intent of ORS 757.259 authorizes the Public Utility Commission of Oregon ("Commission") to defer the comprehensive revenue requirement impact of capital investments.<sup>1</sup> This Supplemental Closing Brief provides examples of capital deferrals the Commission has approved for PGE, and highlights why these deferrals were fair and reasonable. In the process, this brief addresses the policy implications raised by Commission Staff, and by the Oregon Citizens' Utility Board ("CUB") and the Alliance of Western Energy Consumers ("AWEC")<sup>2</sup> (collectively, "Intervenors"), not otherwise addressed in the Joint Utilities' Closing Brief.

The Commission has ordered a wide range of capital investment deferrals for PGE, ranging from energy efficiency investments, information technology ("IT") infrastructure improvements, renewable energy developments, and emissions control projects. Each of these deferrals was

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<sup>1</sup> The Joint Utilities' Closing Brief provides the consolidated legal analysis of PGE, Idaho Power Company ("Idaho Power"), PacifiCorp d/b/a Pacific Power ("PacifiCorp"), Northwest Natural Gas Company ("NW Natural") Avista Corporation ("Avista"), and Cascade Natural Gas Corporation ("Cascade") (collectively, "Joint Utilities").

<sup>2</sup> The Industrial Customers of Northwest Utilities ("ICNU") and Northwest Industrial Gas Users ("NWIGU") are now known as AWEC.

supported by Staff as in the public interest—by reducing the number of rate cases, facilitating fair and reasonable settlements, and appropriately matching the costs and benefits borne by customers. These benefits were achieved while assuring that the deferrals appropriately balanced utility and customer interests. None of these concrete, practical benefits were addressed by Staff or Intervenors. Indeed, both parties’ briefs are notably devoid of any discussion of actual capital investment deferrals—or the fact that they previously supported such deferrals. PGE requests that the Commission continue to exercise its discretion to approve full revenue requirement deferrals on a case-by-case basis, and provides this important background showing why these deferrals are in the public interest.

## II. DISCUSSION

ORS 757.259(2)(e) establishes the central public benefits of deferrals by authorizing their use “in order to minimize the frequency of rate changes or the fluctuation of rate levels or to match appropriately the costs borne by and benefits received by ratepayers.”<sup>3</sup> When the Commission authorized capital deferrals in the past, it found that each deferral met this public interest standard, in addition to providing other public benefits.

Now, after years of consistent practice, Staff and Intervenors claim that capital costs cannot be included in capital investment deferrals, and that all capital investment deferrals are contrary to the public interest and should be uniformly denied.<sup>4</sup> Such a position fails to account for the actual public benefits achieved by PGE’s past—and ongoing—deferrals.

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<sup>3</sup> ORS 757.259(2)(e).

<sup>4</sup> Docket No. UM 1909, Joint Opening Brief of the Or. Citizens’ Util. Bd., the Indus. Customers of Nw. Utils., and Nw. Indus. Gas Users (“Intervenors’ Brief”) at 6 (urging the Commission to “adopt a policy that generally prohibits [capital investment] deferrals on policy grounds”).

### **A. Energy Efficiency Program**

In 1992 (docket UM 538), PGE asked the Commission to “defer for later ratemaking treatment revenue requirement amounts related to PGE’s energy efficiency investments” associated with PGE’s Share All Value Equitably (“SAVE”) tariff schedule.<sup>5</sup> The SAVE program was a three-year experimental tariff intended to motivate PGE to “aggressively pursue acquisition of cost-effective energy efficiency measures.”<sup>6</sup> To ensure that PGE was incented to make such investments, the Commission authorized the deferral of the “revenue requirement” of investments for later recovery, including “interest on the accumulated deferred balance.”<sup>7</sup>

Staff concluded that the revenue requirement deferral “complie[d] with the requirements of ORS 757.259,” and would serve the public’s interest in increased cost-effective energy efficiency investments.<sup>8</sup> The Commission agreed, finding that approval “of deferred accounting for costs associated with [demand-side] investments” would “minimize the frequency of rate changes,” and therefore satisfied “the requirements of ORS 757.259.”<sup>9</sup>

### **B. IT Infrastructure Investments and Y2K Costs**

In 2001 (docket UE 115), the Commission authorized revenue requirement deferrals for certain IT investments and Y2K-related costs, with the support of Staff.<sup>10</sup> The Commission and the stipulating parties agreed that, if the actual revenue requirement for the project was less than the base rate revenue requirement, the difference was to be “deferred in a balancing account for

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<sup>5</sup> *In the Matter of the Application of Portland Gen. Elec. Co. for an Order Approving Deferred Accounting for Certain Costs*, Docket No. UM 538, Order No. 93-346, Appendix A at 1 (Mar. 15, 1993).

<sup>6</sup> Order No. 93-346, Appendix A at 2.

<sup>7</sup> Order No. 93-346, Appendix A at 3.

<sup>8</sup> Order No. 93-346, Appendix A at 3.

<sup>9</sup> Order No. 93-346 at 2.

<sup>10</sup> *In the Matter of Portland Gen. Elec. Co.’s Proposal to Restructure and Reprice Its Services in Accordance with the Provisions of SB 1149*, Docket No. UE 115, Order No. 01-777, Appendix B at 3 (Aug. 31, 2001).

future refund to customers.”<sup>11</sup> PGE also agreed to waive an earnings review for the potential refund—making only potential surcharges subject to such a test.<sup>12</sup>

The balancing accounts established under docket UE 115 accrued interest “at PGE’s last approved cost of capital”<sup>13</sup>—meaning that deferred customer refunds earned interest at PGE’s 9.1 percent rate of return.<sup>14</sup> Now, Intervenors argue that the interest earned on capital investment deferrals have “all upside for a utility to the detriment of ratepayers.”<sup>15</sup> As demonstrated by the UE 115 deferral, however, such interest can also inure to the benefit of customers.

In 2004, the docket UE 115 deferrals were addressed again in docket UM 1131, where the Commission noted that the IT deferral had resulted in an \$8.3 million credit to customers in 2002, and an additional \$4.3 million credit in 2003.<sup>16</sup> The 2002 credit was refunded to customers through the “2002 true-up.”<sup>17</sup> An additional \$4.3 million was refunded through the “2003 true-up.”<sup>18</sup> PGE requested a deferral beginning January 1, 2004 for a 12-month period in order to “minimize the frequency of rate changes or fluctuations of rate levels or match appropriately the costs borne by and the benefits received by ratepayers;” again, the Commission approved the deferral as consistent with the public interest.<sup>19</sup>

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<sup>11</sup> Order No. 01-777, Appendix B at 9.

<sup>12</sup> Order No. 01-777, Appendix B at 9.

<sup>13</sup> Order No. 01-777, Appendix B at 9.

<sup>14</sup> *In the Matter of Portland Gen. Elec. Co. Application to Defer for Later Ratemaking Treatment the Revenue Requirement Effect of Certain Unspent Info. Tech. Costs*, Docket No. UM 1131, Order No. 04-169, Appendix A at 2 (Mar. 23, 2004).

<sup>15</sup> Intervenors’ Brief at 10.

<sup>16</sup> Order No. 04-169, Appendix A at 1.

<sup>17</sup> Order No. 04-169, Appendix A at 1.

<sup>18</sup> Order No. 04-169, Appendix A at 1.

<sup>19</sup> Order No. 04-169, Appendix A at 2.

### C. Cyber Security, 2020 Vision, Coyote Springs Upgrade, and Boardman Pollution Controls

In 2011 (docket UM 1513), the Commission approved a deferral application for four capital projects—a cyber security upgrade project, the “2020 Vision” technology infrastructure upgrade project, the Coyote Springs upgrade, and the installation of Boardman pollution controls (“Four Capital Projects”).<sup>20</sup> The deferral was proposed pursuant to an adopted stipulation in PGE’s 2010 general rate case in docket UE 215, where PGE, Staff, CUB, Kroger, and ICNU agreed to remove these four capital projects from PGE’s revenue requirement and preserve their consideration for a future rate case.<sup>21</sup> The stipulating parties had agreed “to support deferred accounting treatment under ORS 757.259 for the *revenue requirement* associated with the recovery of both the return *on* and return *of* the capital costs of the Four Capital Projects.”<sup>22</sup>

This mechanism provided additional assurance to parties in PGE’s rate case that only plant that was “used and useful” would be included in rates, without requiring PGE to file successive rate cases.<sup>23</sup> PGE’s deferral application in docket UM 1513 explained that the deferral would begin “when each of the projects is in service and the costs are booked to plant in service”—thus alleviating parties’ concerns.<sup>24</sup>

Now, Intervenors argue that capital investments should be uniformly denied because they “are more appropriately recovered through the traditional ratemaking process.”<sup>25</sup> As demonstrated by the docket UM 1513 deferral, however, both Staff and Intervenors have supported *removing*

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<sup>20</sup> *In the Matter of Portland Gen. Elec. Co. Authorizes Deferred Accounting for Four Specific Capital Projects*, Docket No. UM 1513, Order No. 11-153 at 1 (May 10, 2011).

<sup>21</sup> *In the Matter of Portland Gen. Elec. Co. Request for a Gen. Rate Revision*, Docket No. UE 215, Order No. 10-478 at 6 (Dec. 17, 2010).

<sup>22</sup> Order No. 10-478 at 6 (emphasis added).

<sup>23</sup> Order No. 10-478 at 6 (noting that some of the stipulating parties had argued that certain of the projects would not be “used and useful” by the time the new rates were to go into effect).

<sup>24</sup> Docket No. UM 1513, PGE’s Application for Deferred Accounting at 2 (Dec. 30, 2010).

<sup>25</sup> Intervenors’ Brief at 1.

capital investments from a rate case and placing them in deferral accounts, and have concluded that doing so was in the public interest by avoiding the need for successive rate filings while also matching the costs borne and benefits received by customers.

#### **D. Pollution Control Investments**

In 2012 (docket UE 250), PGE sought to include previously-deferred capital costs<sup>26</sup> in rates beginning in 2013, but agreed to continue deferring those costs as part of an all-party settlement that included Staff, CUB, and ICNU.<sup>27</sup> The ongoing deferral of these costs was therefore part of a “compromise” reached by the parties—not a deferral extension undertaken at PGE’s initiative.<sup>28</sup> The parties all agreed that the stipulation, which included the ongoing revenue requirement deferral, was “in the public interest” and resulted in fair and reasonable rates.<sup>29</sup>

The ongoing deferral of these costs successfully minimized the number of PGE’s rate cases, as explained in PGE’s subsequent request for reauthorization of the docket UM 1513 balancing account in 2012.<sup>30</sup> Staff and the Commission agreed, concluding that the ongoing deferral would continue to “minimize the frequency of rate changes and match appropriately the costs borne and benefits received by ratepayers.”<sup>31</sup>

Now, Intervenors claim that deferred accounting for capital investment “would fly in the face of past Commission precedent,”<sup>32</sup> ignoring their own past support for such deferrals, as well

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<sup>26</sup> The deferral concerned pollution control investments previously included in the UM 1513 deferral account.

<sup>27</sup> *In the Matter of Portland Gen. Elec. Co. Annual Power Cost Update Tariff for 2013*, Docket No. UE 250, Order No. 12-397, Appendix A at 1-2 (Oct. 18, 2012) (“PGE requested that beginning in 2013 those chemical costs be removed from that deferral and included in Schedule 125 and 126 power costs.”).

<sup>28</sup> Order No. 12-397, Appendix A at 2.

<sup>29</sup> Order No. 12-397, Appendix A at 3.

<sup>30</sup> Docket No. UM 1513, PGE’s Application for Reauthorization of Deferred Accounting at 3 (Dec. 27, 2012) (noting that “PGE has not filed a general rate case subsequent to UE 215” in 2010).

<sup>31</sup> *In the Matter of Portland Gen. Elec. Co. Application for Reauthorization of Deferral of Revenue Requirements Associated with Four Capital Projects*, Docket No. UM 1513(2), Order No. 13-048, Appendix A at 2 (Feb. 12, 2013).

<sup>32</sup> Intervenors’ Brief at 6.

as the Commission’s consistent practice of supporting capital investment deferrals that further the public interest.

### **E. Renewable Adjustment Clause Deferrals**

In docket UM 1330, the Commission established the Renewable Adjustment Clause and, with the support of Staff, CUB, ICNU, and PGE and PacifiCorp, affirmed the use of deferred accounting “for recovery of the cost differences between the projected costs . . . and the updated prudently incurred cost elements” for eligible renewable resources,<sup>33</sup> including “[t]he return of and on capital costs.”<sup>34</sup> The parties agreed that ORS 757.259(5)’s earnings review should not apply to such deferrals.

Since that time, the Commission has authorized revenue requirement deferrals for PGE’s investments in the SunWay 1, SunWay 2, and SunWay 3 solar projects,<sup>35</sup> the Biglow Canyon Wind Farm,<sup>36</sup> the Baldock Solar Project,<sup>37</sup> the Tucannon River Wind Farm,<sup>38</sup> and the Portland Public School (“PPS”) Solar Project.<sup>39</sup> Apart from the clear benefit to customers “from the addition of

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<sup>33</sup> *In the Matter of an Investigation of Automatic Adjustment Clause Pursuant to SB 838*, Docket No. UM 1330, Joint Stipulation at 5 (Nov. 29, 2007); *see also* Docket No. UM 1330, Order No. 07-572 at 3 (Dec. 19, 2007).

<sup>34</sup> Order No. 07-572 at 3.

<sup>35</sup> *In the Matters of Portland Gen. Elec. Co. Schedule 122 Update to Renewable Resources Automatic Adjustment Clause and Application for Deferral of Incremental Costs Associated with the SunWay 1 and SunWay 2 Solar Projects*, Docket Nos. UE 209 & UM 1407, Order No. 09-398 at 4 (Oct. 5, 2009); *In the Matters of Portland Gen. Elec. Co. Renewable Resources Automatic Adjustment Clause and Application for Deferral of Incremental Costs Associated with Biglow Canyon Wind Farm Phase 3 and SunWay 3, LLC Solar Project*, Docket Nos. UE 220 & UM 1480, Order No. 10-391 at 3 (Oct. 11, 2010).

<sup>36</sup> Order No. 10-391 at 3.

<sup>37</sup> *In the Matter of Portland Gen. Elec. Co. Application for Deferral of Revenue Requirement of Incremental Costs Associated with Baldock Solar Project*, Docket No. UM 1574, Order No. 12-063, Appendix A at 1 (Feb. 28, 2012).

<sup>38</sup> *In the Matter of Portland Gen. Elec. Co. Application for Deferral of Costs Associated with Tucannon River Wind Farm*, Docket No. UM 1711, Order No. 15-011, Appendix A at 1 (Jan. 13, 2015).

<sup>39</sup> *In the Matters of Portland Gen. Elec. Co. Schedule 122 Update to Renewable Resources Automatic Adjustment Clause and Application for Deferral of Incremental Costs Associated with the Portland Pub. Schools Solar Project*, Docket Nos. UE 297 & UM 1724, Order No. 15-304 at 2-3 (Oct. 2, 2015).



renewable generation capacity,”<sup>40</sup> Staff agreed that each deferral resulted in rates that were “fair, just, and reasonable.”<sup>41</sup>

For instance, PGE, Staff, and CUB agreed to establish a balancing account for the Baldock Solar Project that accounted for both the costs of the new resource and the utility’s gain on the sale of related property for the same time period, thereby “appropriately matching the costs borne by and benefits received by customers.”<sup>42</sup> The balancing account provided an estimated \$1.831 million credit to PGE’s customers.<sup>43</sup> Similarly, the Commission deferred incremental revenue requirement associated with the PPS Solar Project—a deferral account that yielded “a net credit to customers of approximately \$2.1 million” as well as approximately 1.2 MW of new renewable capacity.<sup>44</sup>

Now, Intervenors claim that capital investment deferrals “fail[] to meet the fair, just and reasonable standard this Commission applies.”<sup>45</sup> Not only do Intervenors thus recant their past support for revenue requirement deferrals under ORS 757.259, but they ignore the clear public benefit served by capital investment accounts that provide customer refunds, reduce the number of necessary rate cases, and support fair settlements. Both Staff and Intervenors have repeatedly recognized the fairness and usefulness of accurately tracking the costs borne and benefits received by customers, accruing interest on those deferred amounts, and amortizing the remaining balances in later rates.

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<sup>40</sup> See, e.g., Order No. 15-011, Appendix A at 2.

<sup>41</sup> See, e.g., Order No. 10-391, Appendix A at 3; see also Order No. 15-304 at 2 (noting that the deferral would “result in just and reasonable rates and [was] in the public interest”).

<sup>42</sup> Order No. 12-063, Appendix A at 2.

<sup>43</sup> Order No. 12-063, Appendix A at 2.

<sup>44</sup> Order No. 15-304 at 2.

<sup>45</sup> Intervenors’ Brief at 10.

### III. CONCLUSION

As demonstrated by (1) the Commission's repeated authorization of revenue requirement deferrals, (2) Staff's and Intervenors' support for the appropriateness of such deferrals under ORS 757.259, and (3) the clear public benefits achieved by PGE's own history with capital investment deferrals, there is no support for Staff's and Intervenors' assertion that deferring capital investments is somehow inconsistent with established Commission precedent or contrary to the public interest. As anticipated by ORS 757.259(2)(e), capital investment deferrals have successfully minimized the frequency of rate cases and better matched the costs borne and benefits received by customers. In addition, PGE's deferrals have returned refunds to customers and accorded the appropriate time-value-of-money to customers in the form of accrued interest. Finally, these capital investment deferrals have effectively supported fair and reasonable settlements and thereby supported administrative efficiency and conserved all parties' resources. PGE thus requests that the Commission continue to exercise its discretion to approve capital investment deferrals on a case-by-case basis.

Respectfully submitted this 14<sup>th</sup> of May 2018, on behalf of PGE.

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