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November 1, 2021

***Via Electronic Filing***

Public Utility Commission of Oregon  
Attention: Filing Center  
201 High Street Southeast, Suite 100  
Post Office Box 1088  
Salem, Oregon 97308-1088

Re: **UM 2152 – In the Matter of Portland General Electric Company, Detailed Depreciation Study of Electric Utility Properties**

Dear Filing Center:

Enclosed for filing today in the above-referenced docket is the Joint Opening Brief of Portland General Electric Company (PGE), Oregon Citizens' Utility Board (CUB), and Staff of the Public Utility Commission of Oregon (STAFF). This document is being filed by electronic mail with the Filing Center.

Thank you in advance for your assistance.

Sincerely,

A handwritten signature in blue ink that reads "Loretta Mabinton".

Loretta I. Mabinton  
Managing Assistant General Counsel

LM: dm  
Enclosures

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UM 2152

In the Matter of

PORTLAND GENERAL ELECTRIC  
COMPANY,

Detailed Depreciation Study of  
Electric Utility Properties.

**JOINT OPENING BRIEF OF  
PORTLAND GENERAL ELECTRIC  
COMPANY, OREGON CITIZENS'  
UTILITY BOARD, AND STAFF OF  
THE PUBLIC UTILITY  
COMMISSION OF OREGON**

**I. Introduction**

Pursuant to the procedural schedule entered by the Administrative Law Judge's ("ALJ") on August 16, 2021, Portland General Electric Company (PGE), Staff of the Public Utility Commission of Oregon (Staff), and the Oregon Citizens' Utility Board (CUB) (collectively, the Stipulating Parties) file this Joint Opening Brief with the Public Utility Commission of Oregon ("Commission"). The Stipulating Parties' overarching interest in this proceeding is to help the Commission approve a depreciation study that results in fair and reasonable rates to customers. All parties to this docket reviewed PGE's depreciation study, vetted, challenged, and obtained additional evidence, and engaged in multiple settlement conferences. The Stipulating Parties arrived at a depreciation schedule that satisfies the Commission's requirements. For the reasons set forth in this Joint Opening

Brief, the Stipulating Parties respectfully request that the Commission adopt the Joint Stipulation in this docket.

## **II. Background**

ORS 757.140(1) provides that each public utility “shall carry a proper and adequate depreciation account. The Commission shall ascertain and determine the proper and adequate rates of the several classes of property of each public utility.” On January 15, 2021, pursuant to Commission Order No. 17-365, PGE filed with the Commission the results of a detailed depreciation study<sup>1</sup> of its utility properties as of December 31, 2019, which included proposed depreciation lives, curves, and net salvage rates (collectively the “parameters”) and depreciation rates for PGE’s generation, transmission, distribution, and general plant. PGE responded to numerous data requests from parties to this docket and a workshop was held on April 8, 2021. On June 24 and June 28, 2021 the Parties (PGE, Staff, CUB and AWEC) held settlement conferences and on July 29, 2021 the Stipulating Parties entered into and filed a stipulation (Joint Stipulation) resolving all issues in the docket. AWEC opposed the Joint Stipulation. On August 4, 2021, AWEC filed a motion to suspend the procedural schedule and requested a waiver of OAR 860-001-0350(8), which requires objections to a stipulation to be filed within 15 days of the filing of the stipulation. On August 5, 2021, the ALJ entered a ruling waiving

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<sup>1</sup> The study was 532 pages, and included backup for the conclusions PGE had arrived at.

OAR 860-001-0350(8) to provide adequate process for the remainder of the proceeding. The Stipulating Parties filed an objection to AWEC's motion and proposed a procedural schedule for the remainder of the proceeding on August 11, 2021. On August 13, 2021, AWEC filed a motion for leave to reply, as well as its reply to the Stipulating Parties' Objection. On August 16, 2021, the ALJ made a ruling adopting a new procedural schedule. AWEC filed its objection to the Joint Stipulation and Supporting Testimony on September 17, 2021, and the Stipulating Parties filed Reply Testimony on September 29, 2021. On October 11 and 12, 2021 the ALJ held hearings in this docket, and the parties' witnesses testified and were subject to cross-examination.

### **III. Argument**

The Stipulating Parties believe that the proposed depreciation rates contained in their Joint Stipulation and Supporting Testimony are fair, just and reasonable and should be adopted by the Commission. First, the record in this proceeding is sufficient for the Commission to adopt the depreciation rates as proposed by the Stipulating Parties. Second, the method that the Stipulating Parties used to set the depreciation rates is systematic and rational and supported by national best practices. On the other hand, the arguments set forth by AWEC in its testimony and at hearing focus on short-term depreciation expense savings for the narrow set of customers it represents and would shift costs to a broader set of future customers. AWEC's

position departs from national best practices and would result in an inequitable outcome in which future customers are forced to foot the bill for near-term, short-lived reductions.

- i. The record in this proceeding is sufficient for the Commission to adopt the proposed depreciation rates.

When evaluating the reasonableness of a proposed settlement concerning rates, the Commission looks at the record as a whole and balances the interests of the utility investors and its customers.<sup>2</sup> The Commission makes the determination of the sufficiency of the record. The Commission does not require that this evidence take a particular form.<sup>3</sup> In rate proceedings, a record is considered adequate when the parties “provide a detailed explanation in joint or individual party testimony that explains why the stipulation is just and reasonable. . .”<sup>4</sup> Contrary to AWEC’s assertion, PGE is not required to file direct testimony with the filing of the depreciation study. The Oregon Administrative Rules’ minimum filing requirements for depreciation dockets do not require testimony to be filed with the depreciation study.<sup>5</sup> Historically, given the detailed nature of the depreciation study, coupled with the fact that the study is performed by a well-regarded expert, PGE has

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<sup>2</sup> UE 227, Order No. 11-435 at 3.

<sup>3</sup> UG 366, Order No. 19-331 at 4, (“However, we reiterate that parties should continue to ensure that the record is sufficient to evaluate any stipulations in future proceedings, whether through initial testimony of the individual parties, or joint testimony where feasible. “).

<sup>4</sup> UG 284, Order No. 15-109 at 6.

<sup>5</sup> See OAR 860-022-017, OAR 860-022-019, OAR 860-022-0025, and OAR 860-022-0030.

not filed testimony with its depreciation study. In essence, the detailed depreciation study is the expert's testimony. It is worth noting that AWEC (or its predecessor organization) has been a party to multiple PGE depreciation dockets to date and had not raised this issue in these past dockets. In any event, AWEC and other parties put forward multiple data requests based on the study prior to settlement. PGE and its experts responded to all data requests. The evidence contained in the data responses, detailed depreciation study and joint testimony is sufficient for the Commission to make a determination on the Joint Stipulation. When evaluating the reasonableness of a proposed settlement, the Commission reviews the entire record for evidence supporting the stipulation.<sup>6</sup> The Stipulating Parties have put forth sufficient evidence supporting the stipulation. If the Commission believes that the stipulation, as a whole, represents a reasonable resolution that will result in an overall settlement with just and reasonable rates, then the stipulation should be adopted.<sup>7</sup>

In this docket, the Commission is tasked with approving depreciation curves and rates it believes furthers the public interest. The Commission must also determine whether the proposed depreciation rates are just and reasonable. "Just and reasonable" rates is a term of art that describes how the Commission must set rates that establish a balance between the interests of the utility customer and the utility

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<sup>6</sup> UG 284, Order No. 15-109 at 6.

<sup>7</sup> UE 227, Order No. 11-435 at 3.

investor. Here, the Joint Stipulation was based on the results of a detailed depreciation study submitted by PGE in January 2021. All of the parties, including AWEC, participated in a workshop on April 8, 2021. Importantly, here, the Stipulating Parties represent a broad range of interests, yet they all agree the depreciation rates set forth in the stipulation are just and reasonable. Although PGE did not—and was not required to—provide testimony in conjunction with its initial filing, the testimony offered into the record by the Stipulating Parties clearly demonstrates that the stipulation is based upon sound industry practices and allocates depreciation rates in an equitable manner. The record in this docket is sufficient for the Commission to approve the Stipulation.

- ii. The method that the Stipulating Parties used to set the depreciation rates is systematic and rational.

The Stipulating Parties' stipulation utilizes the remaining life technique. The Federal Energy Regulatory Commission (FERC) Uniform System of Accounts (UofA), the National Association of Regulatory Utility Commissioners (NARUC), the Society of Depreciation professionals and Wolfe and Fitch (the premier authority on utility depreciation studies) all use remaining life basis for adjustments to depreciation rates. It is important to match utilization of assets with the recovery of assets, and this needs to be done fairly from the beginning of that asset's life to the end. In contrast, AWEC's proposal would materially change the recovery pattern

and cause a mismatch between utilization and recovery of assets, which is not systematic or rational and is inconsistent with standard depreciation practices.

AWEC would have the Commission significantly reduce depreciation expense by over \$50 million per year through a short-term reduction in depreciation expense based on a calculated **theoretical** reserve imbalance or what AWEC's witness referred to as "excess reserves."<sup>8</sup> The result of this proposal is that once this short-term reduction concludes, customers will experience a significant increase in depreciation expense of at least \$50 million. This increase is due to both the expiration of AWEC's proposal and higher depreciation rates that result from a lower accumulated depreciation balance. Customers will also have to pay for a much higher rate base. The depreciation rates proposed in the joint stipulation allocates costs to customers based on traditional ratemaking principles of cost causation<sup>9</sup>. Customer classes are responsible to bear the costs they drive on the system. Current customers should also bear the costs they drive on the system—not future customers. AWEC's proposal, on the other hand, would shift costs to future customers, and is therefore inequitable.

This Commission has a long history of applying the remaining life

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<sup>8</sup> Notably, AWEC cites only two cases to support the reserve adjustment exposing how very rare this method is, and one of those cases is from NY where the remaining life technique does not apply and thus it is not relevant.

<sup>9</sup> Docket No. UCR 191, Order No. 18-430 at 4, ("This represents a traditional application of the fundamental ratemaking principle of cost-causation. In ratemaking, utilities and regulators strive to allocate costs according to causation, meaning that customers should be charged for the costs they cause to the system. The cost-causation principle compares 'the costs assessed against a party to the burdens imposed or benefits drawn by that party.'"), citing [S.C. Pub. Serv. Auth. v. FERC, 412 U.S. App. D.C. 41, 48, 762 F.3d 41, 48 \(2014\)](#).



technique<sup>10</sup>, which is a superior method. AWEC's proposal would increase customer prices in the long-term and cause intergenerational inequity. And AWEC's proposal is not in-line with FERC and NARUC best practices. As shown above and in the stipulation and joint testimony of the Stipulating Parties, the method that the Stipulating Parties used to set the depreciation rates is systematic and rational.

#### **IV. Conclusion**

WHEREFORE, the Stipulating Parties respectfully request that the Commission issue an order adopting the Stipulation.

DATED this 1st day of November, 2021.

Respectfully submitted,



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<sup>10</sup> See, e.g., UM 1801, Order No. 17-186 at 3; UE 79, Order No. 91-186 at 22: (“The Commission has reviewed the stipulation...and finds...the use of a remaining life method to be reasonable.”)

/s/ Jill Goatcher

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