

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UM 2152

In the Matter of

PORTLAND GENERAL ELECTRIC  
COMPANY,

Detailed Depreciation Study of Electric  
Utility Properties.

RULING

DISPOSITION: MOTION TO COMPEL GRANTED

**I. INTRODUCTION**

On May 3, 2021, Alliance of Western Energy Consumers (AWEC) filed a motion to compel Portland General Electric Company to provide the depreciation data requested in AWEC Data Request 002 in a native format as machine-readable files. AWEC describes the requested data as including 463 pages of tables and graphs related to life tables, salvage, and accrual calculations. As an alternative, AWEC requested that the Commission open an investigation to establish minimum filing requirements for utilities in depreciation proceedings. On May 18, 2021, Staff and the Oregon Citizens' Utility Board (CUB) filed responses. AWEC filed a reply on May 26, 2021. In this ruling, I find that PGE must provide the depreciation data requested in AWEC Data Request 002 in a native format as machine-readable files. Accordingly, AWEC's motion is granted.

**II. DATA REQUEST**

AWEC's Data Request 002 is as follows:

Please refer to the 2019 Depreciation Study, Part VII, VIII, and IX.  
Please provide these data as a comma-delimited or tab-delimited text file. If you refuse to provide the information in the format requested, please provide a detailed explanation of the basis for your refusal.

### III. POSITIONS OF THE PARTIES

#### A. AWEC

AWEC contends that PGE's consultant performed statistical analysis of the data in Sections VII, VIII, and IV of the depreciation study, which forms the basis for average service lives and net salvage used in the proposed depreciation rates. AWEC argues that in order to evaluate the reasonableness of the proposed depreciation rates, the parties to this case must be able to confirm whether the statistical analysis supports the recommended rates. AWEC asserts its request is limited to the production of the same information already provided, but in a form that can be used to audit the depreciation study without time consuming and error-prone manual conversion. AWEC explains that having the data in a machine-readable format is not uniquely beneficial to it, and that a format that integrates with Microsoft Excel or any other widely used program is sufficient. AWEC additionally asserts that other depreciation models produce outputs in this format. AWEC disputes PGE's assertion that this is the first time a party has requested the outputs in a machine-readable format, pointing to requests made in PacifiCorp depreciation cases before the Washington Utilities and Transportation Commission and this Commission.<sup>1</sup>

AWEC asserts that not having access to the output data in machine-readable format will inhibit the development of a complete and accurate record on which the Commission can base an informed decision. AWEC disputes that PGE having provided the input data in Excel format enables AWEC to reproduce the results of the depreciation study and conduct its own statistical analyses. AWEC explains that the input data is useless for the purpose of auditing the depreciation study because PGE has not identified the steps that were used to convert the inputs to outputs, and because even if the steps were provided, the outputs could not be compared to the outputs from the consultant's model.

AWEC argues that manually converting each table is time consuming and still may result in errors that may not be caught through later analysis. AWEC notes that PGE acknowledges converting the output data from Microsoft Word or PDF format risks distorting the data and providing inaccurate results. AWEC argues that analysis of an inaccurate end product does not provide the Commission with a useful record on which to base a decision. AWEC asserts that such errors would not exist if the information was generated directly into a machine-readable format by the software itself. As a result, AWEC maintains that as the entity that contracted for the depreciation study, PGE is the only "party" capable of providing the data requested.

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<sup>1</sup> AWEC Reply at Attachments B and C.

AWEC contends that its request is commensurate with the needs of the case, the importance of the issues to which the discovery relates, and is proportionate to the resources available to PGE in comparison to the non-utility parties. AWEC contends that it only seeks the outputs in a machine-readable format, not to compel a particular entity to perform the conversion. AWEC asserts that if PGE opts to perform the conversion itself, any resulting inaccuracies would be PGE's responsibility, which AWEC contends is appropriate, as PGE is the party with the burden of proof in this case. AWEC contends that PGE could also provide the requested outputs by having its consultant reprogram its model to provide the outputs directly into machine-readable format.<sup>2</sup> AWEC asserts that PGE's decision to employ a third party to perform its depreciation study should not insulate it from the obligation to provide the data underlying that study in a useable form to the parties in this case. AWEC argues that the Commission has previously found that utilities "have a fundamental obligation to make essential elements of their model available to the Commission and other parties for review and analysis," and that "retaining a third party to develop model inputs ... does not relieve [utilities] of their duty to produce data underlying their model."<sup>3</sup>

In response to PGE's assertion that reprogramming the software would require an International Standards of Operation (ISO) recertification process, AWEC contends that nothing in the Commission's rules or any other applicable requirements necessitates that PGE provide a depreciation study that is certified under ISO standards. Additionally, AWEC argues that neither PGE nor its consultant identify what ISO standard the depreciation model is certified under, or what relevance that certification has to this docket. AWEC contends that PGE has not explained why it cannot provide the certified outputs in the format it has already provided, and also a machine-readable version of the same outputs that is not certified.

In the alternative, AWEC recommends that the Commission open an investigation to establish minimum filing requirements for utilities in depreciation cases. AWEC explains that nearly all the electric and natural gas utilities regulated by the Commission use the same consultant to perform depreciation studies. AWEC asserts that a uniform, clear standard by which utilities may meet minimum filing requirements will ensure non-utility parties have access to the necessary information to perform an accurate and thorough review of utility depreciation filings and avoid future similar disputes.

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<sup>2</sup> AWEC notes that AWEC's expert would be able to reprogram the software with access to the source code, but because this model is proprietary, the less intrusive solution would be for PGE to provide the data.

<sup>3</sup> AWEC Motion to Compel at 8, quoting *In the Matter of Qwest Corporation, Investigation to Review Costs and Establish Prices for Certain Unbundled Network Elements provided by Qwest Corporation*, Docket No. UM 1025, Order No. 03-533 at 8 (Aug 28, 2003).

## **B. PGE**

PGE contends that under the Commission's discovery rule, OAR 860-001-0500(4), AWEC must show that (1) PGE uniquely possesses the capability to develop the output data, (2) AWEC's request is not unduly burdensome, and (3) the development of the data is highly relevant to the proceeding. PGE contends that AWEC cannot satisfy this standard because AWEC already possesses the identical data in a different native format, AWEC is able to convert the data itself, and reprogramming PGE's third-party consultant's depreciation software would be overly burdensome. PGE argues that it has provided all of the information required for AWEC to conduct a meaningful audit.

PGE contends that it does not uniquely possess the capability to develop the output data. PGE contends that AWEC could convert the output data already provided by PGE to another Microsoft program, such as Excel, and states that PGE provided AWEC the input data in its native format, Excel. PGE maintains that with this data, AWEC would be able to reproduce the results of the depreciation study to conduct its own statistical analyses. PGE asserts that AWEC acknowledges that its expert would be able to convert the output data into the requested format, explaining that it would take up to ten hours to convert and error check the data. PGE notes that while this conversion process may take time, AWEC does not contend that such conversion is impossible. PGE argues that the Commission's rules do not require PGE or its consultant to "develop" its data for another party unless that party cannot develop the data on its own. PGE also asserts that the risk of distorting data remains regardless of who conducts the conversion and argues that AWEC has not shown that the risk of error would be reduced if PGE conducts the conversion process.

PGE argues that AWEC's discovery request is unduly burdensome to PGE and its consultant. PGE asserts that it cannot provide the data as requested in DR No. 002 because the data in the requested format does not exist. PGE disputes AWEC's contention that reprogramming the software is a "straightforward exercise" that involves "minimal effort." PGE asserts that to provide the data in the format requested by AWEC would require multiple hours for its consultant to reprogram its software and necessitate applying for recertification with ISO requirements for engineering firms. PGE contends that this would be a major and costly undertaking, outside the scope of work PGE requested. PGE contends that PGE has already produced the data developed by its third party consultant, and argues that it should not be required to recreate the data in a format incompatible with the consultant's software.

PGE contends that whether depreciation software used by other companies in other states provides data in the requested format is not relevant to this case. PGE argues that the company and other Oregon utilities have previously filed depreciation studies produced

by this consultant without any disputes regarding data formatting. PGE contends that its consultant provides depreciation studies to utility companies throughout the United States and has never been asked or required to submit its depreciation studies in the format requested by AWEC.

PGE argues that AWEC's request to open an investigation to establish minimum filing requirements for utility depreciation cases is outside the scope of this docket. PGE argues that a request for a generic investigation should not be considered without notice to and responses from all interested parties.

**C. Staff**

Staff supports AWEC's request to open an investigation to establish minimum filing requirements for utilities in depreciation cases. For purposes of this docket, Staff notes that it has received the data that it needs for its analysis, and to prepare the Staff settlement proposal, which is due to parties by June 18, 2021. Staff requests that if AWEC's motion to compel is granted, that the procedural schedule be maintained as adopted.

**D. CUB**

CUB supports AWEC's motion and argues that Staff and intervenors need full access to the data and workpapers underlying a utility's filings to adequately audit the filings and ensure they will result in just and reasonable rates. CUB contends that for depreciation cases or other proceedings with voluminous workpapers and data, this requires access to data in a machine-readable format with spreadsheets that have workable cells. CUB notes that providing data and workpapers in a machine-readable format is common industry practice in a variety of proceedings. CUB argues that the information sought in AWEC DR 002 is clearly relevant to this docket, and that if provided, CUB will use the information to aid in its review of the reasonableness of the proposed depreciation rates. CUB maintains that the information asymmetry between utilities and intervenors is vast, and that without providing this information in a machine-readable format, an audit of the company's filing would be extremely difficult for all parties.

CUB also supports AWEC's alternative recommendation to open an investigation to establish minimum filing requirements for utilities to be reasonable and contends that Commission guidance on the form and content for depreciation cases and an expectation for the data that should be provided may help avoid similar disputes in the future.

#### IV. DISCUSSION

Under OAR 860-001-0500(4):

A party will not be required to develop information or prepare a study for another party, unless the capability to prepare the study is possessed uniquely by the party from whom discovery is sought, the discovery request is not unduly burdensome, and the information sought has a high degree of relevance to the issues in the proceedings.

I first consider whether PGE has the unique capability to develop the information. AWEC seeks the output data associated with PGE's consultant's statistical analysis underlying the proposed depreciation rates in machine-readable format. PGE disputes that PGE is uniquely able to provide the information in this format, and argues that AWEC is able to do so itself with information already provided. With the output data already provided by PGE in PDF and Microsoft Word format, the parties to this case are able to convert the data to a machine-readable format only using a manual process. As acknowledged by PGE, manual conversion carries a risk of data distortion and resulting errors. I find that, as the only entity with access to the software, PGE's consultant is uniquely capable of generating the data in this format without requiring manual conversion. As noted by AWEC, the Commission has previously found that utilities are obligated to make available the essential elements of their models for review and analysis, even where a third party developed the model inputs. Here, although PGE has already provided the output data in a different format, the ability of the other parties to analyze that data could be materially impacted by the errors that might result from relying on manual conversion.

Second, I consider whether AWEC's request is unduly burdensome. As the proponent of the depreciation rates in this case, PGE is responsible for providing the relevant data in a usable format for analysis by the other parties. The data requested here does not require the preparation of a new or different analysis, and is most readily obtained by reprogramming of the consultant's software to generate data in a more universally usable format. I find that PGE has not demonstrated that the reprogramming itself would be unduly burdensome under these circumstances, particularly as compared to manual conversion by each party individually. PGE argues that the reprogramming would take "multiple" hours and necessitate an ISO recertification process. PGE's argument that reprogramming the software to provide data in this format would necessitate ISO recertification is unpersuasive. PGE does not identify the relevant ISO certification, or explain why recertification would be required to generate the data in the requested format for this proceeding. As compared to the manual process that would be required for other parties to convert the data, and the potentially error prone results, PGE has not

demonstrated that reprogramming the software to generate the data in this format is unduly burdensome. Even in the event that PGE's consultant cannot or will not reprogram its software to provide the data in the requested format, it would not be unduly burdensome for PGE to complete the manual conversion in-house and verify the results.

Lastly, I consider whether the information sought has a high degree of relevance to the proceedings. No party disputes that the analysis underlying the depreciation rates is central to this proceeding.

For the reasons addressed above, I find that PGE must provide the depreciation data requested in AWEC Data Request 002 as machine-readable files. Accordingly, AWEC's motion to compel is granted. PGE is directed to provide the requested data within 10 business days.

Because I grant AWEC's motion to compel, this ruling does not reach AWEC's alternative recommendation to open an investigation to establish minimum filing requirements for utilities in depreciation dockets.

#### V. RULING

AWEC's Motion to Compel filed May 3, 2021 is granted.

Dated this 10<sup>th</sup> day of June, 2021, at Salem, Oregon.



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Alison Lackey  
Administrative Law Judge

A party may request certification this ruling for the Commission's consideration. Under OAR 860-001-0110(1), a request for certification must be filed within 15 days of the date of service of this ruling.