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May 25, 2022

VIA ELECTRONIC FILING

Attention: Filing Center
Public Utility Commission of Oregon
P.O. Box 1088
Salem, Oregon 97308-1088

Re: UE 394 – *In re Portland General Electric Company, Request for a General Rate Revision.*

Attention Filing Center:

Attached for filing in the above-referenced docket is Portland General Electric Company's Reply in Support of its Motion for Clarification.

Please contact this office with any questions.

Sincerely,

Katherine McDowell

Attachment

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UE 394

In the Matter of

PORTLAND GENERAL ELECTRIC
COMPANY,

Request for a General Rate Revision.

**PORTLAND GENERAL ELECTRIC
COMPANY’S REPLY IN SUPPORT OF
MOTION FOR CLARIFICATION**

1 On May 10, 2022, Portland General Electric Company (PGE or the Company) requested
2 that the Public Utility Commission of Oregon (Commission) expeditiously clarify Order No. 22-
3 129 (the Order) regarding the earnings review threshold for the 2020 wildfire and 2021 ice storm
4 deferrals to confirm that it applies only to these specific deferrals and does not establish precedent
5 for either the earnings-review threshold or the process for future deferrals.¹ This is consistent with
6 the Commission’s historical case-specific review of requests for deferred accounting.

7 On May 23, 2022, Commission Staff and the Oregon Citizens’ Utility Board (CUB) filed
8 responses indicating that they do not oppose the Commission clarifying that it addresses deferral
9 earnings reviews on a case-by-case basis, although they believe such clarification is unnecessary.²
10 The Alliance of Western Energy Consumers previously indicated that it does not oppose the
11 motion for clarification,³ and no other party to this case has provided its position. Because PGE’s
12 request for clarification is unopposed and because the requested clarification is necessary to
13 mitigate harm to PGE and its customers, the Commission should expeditiously grant the motion.

¹ PGE’s Motion for Clarification at 1-2 (May 10, 2022).

² Staff’s Response to PGE’s Motion for Clarification at 2, 5 (May 23, 2022); CUB’s Response to PGE’s Motion for Clarification at 2 (May 23, 2022).

³ PGE’s Motion for Clarification at 2.

1 **A. PGE, Staff, and CUB agree that the Commission addresses deferrals on a case-by-**
2 **case basis.**

3 PGE asks the Commission to clarify (1) that its decision to set the earnings review threshold
4 for the 2020 wildfire and 2021 ice storm deferrals at 20 basis points below PGE’s authorized return
5 on equity (AROE) applies only to those specific deferrals and does not establish a new, generally
6 applicable policy for future emergency deferrals, and (2) that its decision to establish some
7 elements of the earnings review in this general rate case, separate from the amortization and
8 prudence-review process and without a record of PGE’s earnings, does not create precedent on the
9 procedures for evaluating future deferral authorizations or amortizations. Staff and CUB agree
10 that the Commission’s well-established policy is to determine the appropriate application of an
11 earnings review on a case-by-case basis,⁴ and CUB agrees that the Commission’s established
12 practice is to address earnings review issues concurrently with a prudence review.⁵

13 However, Staff states that PGE appears to inappropriately seek assurance that the
14 Commission will not apply the same ratemaking treatment to future deferrals,⁶ and Staff and CUB
15 both argue that the Commission cannot bind future Commissions to a particular approach for future

⁴ Staff’s Response at 2 (“The order includes no language that would indicate the Commission is abandoning its decades-long approach of determining the appropriate application of the earnings test on a case-by-case basis.”); Staff’s Response at 5 (“[T]o the extent PGE’s request for a clarification is actually a request to clarify the Commission’s policy of addressing the earnings test for each deferral on a case-by-case basis, Staff does not oppose the request”); CUB’s Response at 2 (“[T]he Commission has an established practice of dealing with deferrals on a case-by-case basis.... The Commission has tremendous discretion and broad authority under which it reviews deferred accounting applications. Within this context, it considers ‘deferral applications on a case-by-case basis, and [considers] the particular circumstances of each request under [its] well-established deferral policy.’” (quoting *In re Public Utility Commission of Oregon’s Investigation into the Scope of the Commission’s Authority to Defer Capital Costs*, Docket UM 1909, Order No. 20-106 at 12 (Apr. 6, 2020)).

⁵ CUB’s Response at 2 (“[T]he Commission has an established practice of ...addressing earnings issues concurrently with a prudence review.”).

⁶ Staff’s Response at 1.

1 deferrals.⁷ Staff and CUB misunderstand PGE’s requested relief, which does not involve binding
2 a future Commission in any way. Indeed, it appears that PGE, Staff, and CUB all agree that the
3 Commission should not—and did not—predetermine in this case the earnings-review process or
4 threshold that will be applied to future emergency deferrals.⁸

5 Despite the common understanding among parties who are well-versed in Commission
6 policy and precedent that Order No. 22-129 does not predetermine the approach to future deferrals,
7 some statements in the Order could be, and in fact have been, interpreted more broadly, as
8 explained in PGE’s motion.⁹ PGE filed the request for clarification because the investment
9 community has interpreted Order No. 22-129 as establishing a new regulatory standard for
10 deferrals covering major emergency events that deprives PGE of the opportunity to earn its AROE
11 when such events occur. The investment community reacted to the Order because it reflects a
12 novel and unusual approach. As Staff acknowledges, the Commission has not previously
13 disallowed deferred amounts prior to the prudence-review process by setting a below-AROE
14 earnings-review threshold.¹⁰ Moreover, none of the precedent Staff discussed involved a deferral
15 for a large, emergency event outside the utility’s control.¹¹ While Staff and CUB claim
16 clarification is unnecessary, the investment community’s interpretation and the potential impacts

⁷ Staff’s Response at 1 (“Essentially, PGE seeks an opinion from the Commission regarding rate-making treatment of future deferrals, i.e., assurance that the Commission will not apply the same ratemaking treatment to future deferrals. Such a ruling is inappropriate because the Commission is not able to bind future Commissions to a particular rate treatment of future deferrals.”); CUB’s Response at 2 (“[T]he Commission generally cannot bind future Commissions through language in an order.”).

⁸ CUB’s Response at 2 (“[T]he language in Order No. 22-129 has no impact on the Commission’s review of future emergency deferral applications.”)

⁹ PGE’s Motion for Clarification at 4 (quoting Order No. 22-129 at 53 and highlighting the portions that could be understood to establish a new policy).

¹⁰ Staff’s Response at 4 (“[P]revious disallowances to deferred amounts have not been accomplished with the earnings review.”).

¹¹ See Staff’s Response at 2-4.

1 to customers suggest otherwise. Therefore, PGE asks that the Commission issue a narrow order
2 clarifying its case-by-case policy to address investor concerns and stem the decline in PGE’s stock
3 price resulting from investor perception of PGE’s risk profile.

4 **B. PGE’s requested clarification is necessary to mitigate harm to PGE and its customers.**

5 Though not opposing the request for clarification, CUB takes issue with the circumstances
6 underlying PGE’s motion—arguing that PGE overstated the impact to its stock prices,¹² that the
7 possibility of harm to customers is speculative,¹³ and that PGE caused the problem by including
8 the deferrals in its earnings forecast without recognizing the risk of disallowance.¹⁴ On the last
9 point, Staff’s response effectively rebuts CUB’s argument by providing quotations from PGE’s
10 10-K where PGE alerted investors regarding the possibility of disallowance through an earnings
11 review, demonstrating that PGE fully informed investors about recovery risk based on the
12 Commission’s historical treatment of deferred accounts.¹⁵

13 As to CUB’s first point, CUB states that stocks generally declined during the weeks
14 following issuance of Order No. 22-129, suggesting that PGE cannot attribute the 11 percent
15 decline in its stock solely to the Order.¹⁶ However, PGE’s motion made clear that Order No. 22-
16 129 contributed to an approximately 11 percent drop in PGE’s stock, while peer utilities
17 experienced an approximately 3 percent drop over the same period.¹⁷ In other words, PGE’s stock

¹² CUB’s Response at 6-7.
¹³ CUB’s Response at 5-6.
¹⁴ CUB’s Response at 2-5.
¹⁵ Staff’s Response at 4-5.
¹⁶ CUB’s Response at 6-7.

¹⁷ PGE’s Motion for Clarification at 7 (“Since the date of the order, PGE’s stock price has dropped sharply *compared to other electric utilities*, from \$52.66 per share on April 25, 2022, to \$46.92 per share on May 9, 2022, a reduction of 10.90 percent.”) (emphasis added); PGE’s Motion for Clarification, Attachment 3 (showing PGE’s stock price relative to peer average and utility-specific indices).

1 dropped approximately 8 percent *more* than that of its peer utilities over the same period.¹⁸ Thus,
2 as CUB acknowledges, “PGE’s decline was larger,”¹⁹ and PGE showed that most of the stock-
3 price impact it experienced was not due to general market trends. As shown in Attachment 1, the
4 discrepancy between PGE’s stock price and the stock prices of peer utilities has persisted.²⁰

5 CUB also argues that the decrease in PGE’s stock price harms only PGE’s shareholders
6 and that any potential future harm to customers is speculative.²¹ CUB accuses PGE of
7 “weaponizing” the potential harm to customers to warn the Commission not to adopt below-AROE
8 earnings-review thresholds in the future.²² Although CUB acknowledges that customers may be
9 harmed by a utility’s credit-rating deterioration or inability to access capital markets,²³ CUB
10 dismisses these impacts because they are not presently occurring.²⁴ PGE strongly disagrees with
11 CUB’s statements.

12 First, CUB’s approach of focusing only on present impacts is short-sighted. There is no
13 reason for the Commission to wait until PGE’s financial health deteriorates and customers are
14 actively being harmed to address the concern, when the Commission can help avert these
15 significant consequences by issuing the narrow clarification PGE requested. Restoring PGE’s
16 credit rating *after* a downgrade would be much more difficult and would do nothing to mitigate or

¹⁸ PGE’s Motion for Clarification, Attachment 3 (showing PGE’s stock price relative to peer average and utility-specific indices).

¹⁹ CUB’s Response at 7.

²⁰ See Attachment 1, Stock Price Comparison.

²¹ CUB’s Response at 5-6.

²² CUB’s Response at 6.

²³ CUB’s Response at 6 (“CUB does not dispute that there is a threshold at which customers may be harmed if the Company’s credit rating deteriorates, or if it loses the ability to adequately access capital markets.”).

²⁴ CUB’s Response at 6.

1 undo the harm actually caused by such a downgrade.²⁵ As the Commission recognized in the
2 Order, the effect of a deferral on the utility’s financial health is a consideration in an earnings
3 review.²⁶ Similarly, it should be a factor in granting the clarification PGE has requested.

4 Second, CUB’s claim that PGE somehow seeks to influence future earnings-review
5 determinations is contradicted by the fact that PGE’s only request in the motion for clarification is
6 that the Commission confirm it conducts earnings reviews on a case-by-case basis.

7 Finally, PGE disagrees that its current stock price under-performance affects only
8 shareholders. A decline in stock price reflects the market’s view that the earnable potential return
9 on the investment does not adequately account for the risks of investment in the utility, and reduced
10 stock prices decrease both the net proceeds from issuing common stock and the utility’s market to
11 book ratio.²⁷ The potential risk from dilution of equity investments reduces investors’ interest in
12 purchasing new issues of common stock, which requires the utility to rely more on debt financing,
13 become more leveraged, and ultimately face higher costs to access both debt and equity
14 financing.²⁸ Thus, while the harm to customers is more indirect, it is nonetheless significant. And
15 such harm could occur in the near-term as PGE expects to issue long-term debt later this year; if
16 PGE faces higher borrowing costs as a result of the Order, the effect could be embedded in

²⁵ See, e.g., *In re Avista Corporation, dba Avista Utilities, Application for Authorization to Issue and Sell \$600,000,000 of Debt Securities*, Docket UF 4313, Order No. 19-249, App. A at 8 (July 30, 2019) (observing that, after TCJA-related downgrade by Moody’s, restoration of Avista’s previous credit rating will require “supportive regulatory environment and achieving target metrics”).

²⁶ Order No. 22-129 at 54.

²⁷ See generally Roger A. Morin, PhD, *New Regulatory Finance*, Public Utilities Reports, Inc. at 23-24, 363-364 (2006).

²⁸ *Id.*

1 customer rates for years.²⁹ If left unaddressed by the Commission, the impact from the Order
2 could result in a credit downgrade, higher borrowing costs, less access to capital, and a diminished
3 ability to make the significant and transformational investments required to achieve Oregon’s and
4 PGE’s vision for a clean energy future—all to the detriment of PGE’s customers.³⁰ Restoring
5 investor and market confidence thus promotes the interests of both PGE and its customers.³¹
6 Finally, there is no good reason to allow misinterpretation of a specific Commission deferral
7 decision to persist when all parties understand it is inconsistent with the historical practice of the
8 Commission.

9 **C. Conclusion**

10 PGE’s request for clarification is unopposed. Clarification of the Order is also necessary
11 for the reasons discussed in this reply and PGE’s motion. PGE respectfully requests that the
12 Commission expeditiously grant this narrow request now to mitigate the financial harm PGE has
13 experienced as a result of the investment community’s interpretation of the Order. If left
14 unresolved, the misinterpretation of the Order may significantly impact PGE’s ability to meet
15 customer and state policy expectations. When and if PGE files for reconsideration, it will address

²⁹ See Portland General Electric Company Form 10-Q at 60, *available at* <https://investors.portlandgeneral.com/static-files/30b3b03c-d665-45c9-bcb2-c2ead8a9188f> (“For 2022, PGE expects to fund estimated capital requirements with cash from operations, which is expected to range from \$575 million to \$625 million, issuances of long-term debt securities of up to \$250 million, and the issuance of short-term debt or commercial paper, as needed. The actual timing and amount of any such issuances of debt and commercial paper will be dependent upon the timing and amount of capital expenditures and debt payments.”).

³⁰ See *In re Portland Gen. Elec. Co. Request for Authority to Extend the Maturity of an Existing \$500 Million Revolving Credit Agreement*, Docket UF 4272(3), Order No. 19-025, App. A at 9 (Jan. 23, 2019) (because interest rates available to PGE depend on its credit ratings, the Commission will continue to monitor Moody’s approach to credit ratings).

³¹ See, e.g., ORS 756.040 (providing that rates are fair and reasonable if the utility’s cost of capital is set at a level commensurate with returns of businesses with comparable risks and sufficient to ensure confidence in the utility’s financial integrity to allow it to maintain its credit and attract capital).

- 1 the substantive points raised by Staff and CUB that are outside the narrow scope of PGE's motion
- 2 for clarification.

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**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UE 394

PORTLAND GENERAL ELECTRIC COMPANY

**Attachment 1 to
PGE's Reply in Support of Motion for
Clarification**

Stock Price Comparison

May 25, 2022

Date	POR	POR%	Peer Average *	Peer Average **	UTY Index	UTY Index%	S&P 400 Utilities Index	S&P 400 Utilities Index%
4/25/2022	52.66	0.00%	59.50	0.00%	958.64	0.00%	591.39	0.00%
4/26/2022	52.05	-1.16%	59.07	-0.73%	948.30	-1.08%	585.07	-1.07%
4/27/2022	51.6	-2.01%	58.50	-1.68%	944.31	-1.49%	580.86	-1.78%
4/28/2022	49.36	-6.27%	58.55	-1.61%	955.19	-0.36%	583.16	-1.39%
4/29/2022	47.33	-10.12%	56.64	-4.82%	926.29	-3.37%	566.18	-4.26%
5/2/2022	46.64	-11.43%	55.90	-6.05%	916.47	-4.40%	561.25	-5.10%
5/3/2022	46.34	-12.00%	56.53	-5.00%	919.82	-4.05%	567.98	-3.96%
5/4/2022	46.82	-11.09%	57.96	-2.59%	939.97	-1.95%	582.59	-1.49%
5/5/2022	46.91	-10.92%	57.35	-3.61%	930.24	-2.96%	574.35	-2.88%
5/6/2022	46.94	-10.86%	57.72	-3.00%	936.33	-2.33%	576.39	-2.54%
5/9/2022	46.92	-10.90%	57.86	-2.76%	928.93	-3.10%	575.29	-2.72%
5/10/2022	47.25	-10.27%	57.19	-3.88%	917.71	-4.27%	567.8	-3.99%
5/11/2022	47.78	-9.27%	57.50	-3.37%	925.55	-3.45%	572.66	-3.17%
5/12/2022	46.95	-10.84%	57.43	-3.48%	913.49	-4.71%	574.62	-2.84%
5/13/2022	46.99	-10.77%	58.02	-2.49%	922.66	-3.75%	580.93	-1.77%
5/16/2022	47.08	-10.60%	58.32	-1.99%	925.41	-3.47%	585.45	-1.00%
5/17/2022	47.79	-9.25%	58.73	-1.30%	934.58	-2.51%	592.51	0.19%
5/18/2022	48.24	-8.39%	58.48	-1.72%	924.32	-3.58%	588.13	-0.55%
5/19/2022	48.62	-7.67%	58.23	-2.13%	922.49	-3.77%	587.52	-0.65%
5/20/2022	48.09	-8.68%	58.18	-2.23%	926.08	-3.40%	588.45	-0.50%
5/23/2022	47.96	-8.93%	58.46	-1.75%	936.74	-2.28%	591.47	0.01%
5/24/2022	48.6	-7.71%	59.67	0.28%	956.07	-0.27%	598.84	1.26%

* Peer average components:

ALLETE, INC.	ALE-US
ALLIANT ENERGY CORP.	LNT-US
AVISTA CORP.	AVA-US
BLACK HILLS CORP.	BKH-US
EVERGY, INC.	EVRG-US
HAWAIIAN ELECTRIC INDUSTRIES, INC.	HE-US
IDACORP, INC.	IDA-US
NISOURCE INC.	NI-US
NORTHWEST NATURAL HOLDING CO.	NWN-US
NORTHWESTERN CORP.	NWE-US
OGE ENERGY CORP.	OGE-US
PNM RESOURCES, INC.	PNM-US
PINNACLE WEST CAP	PNW-US

