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February 22, 2022

Via Electronic Filing

Public Utility Commission of Oregon
Attn: Filing Center
201 High St. SE, Suite 100
Salem OR 97301

Re: In the Matter of PORTLAND GENERAL ELECTRIC COMPANY,
Request for a General Rate Revision.
Docket No. UE 394

Dear Filing Center:

Please find enclosed the Opening Brief of the Alliance of Western Energy Consumers in the above-referenced docket.

Thank you for your assistance. If you have any questions, please do not hesitate to call.

Sincerely,

/s/ Jesse O. Gorsuch
Jesse O. Gorsuch

Enclosure

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UE 394

In the Matter of)
)
Portland General Electric Company,)
)
Request for a General Rate Revision.)
_____)

OPENING BRIEF

ON BEHALF OF THE

ALLIANCE OF WESTERN ENERGY CONSUMERS

February 22, 2022

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I. INTRODUCTION

Pursuant to the Administrative Law Judge's January 6, 2022 Ruling in the above-referenced docket, the Alliance of Western Energy Consumers ("AWEC") files this Opening Brief with the Oregon Public Utility Commission ("Commission").

AWEC recommends the Commission approve the four partial stipulations^{1/} put forth by the Stipulating Parties in this case. Each stipulation is the product of substantial work and negotiations by the Stipulating Parties. As shown through the Joint Testimony of each partial stipulation, adoption of the four partial stipulations will result in rates that are fair, just and reasonable and will further the public interest.

Nonetheless, several key issues remain disputed in this case that will have a substantial impact on Portland General Electric Company ("PGE" or Company") rates, and/or significant consequences regarding Commission policy going forward. Five of the remaining issues are discussed in this Opening Brief. First is the treatment of three outstanding deferrals, the UM 2115 Wildfire Deferral, the UM 2156 Ice Storm Deferral, and the UM 2119 Boardman Deferral (collectively, the "Deferrals"). AWEC recommends that the Commission approve the Boardman Deferral in this case and initiate a new consolidated proceeding to review the costs of each Deferral and establish final amortization schedules for the three Deferrals. A consolidated proceeding supports judicial efficiency and furthers the public interest by avoiding substantial potential rate swings if each Deferral is amortized separately on its own schedule. As explained

^{1/} The first partial stipulation was entered on September 30, 2021; the second partial stipulation was entered December 2, 2021; the third stipulation was entered on January 18, 2022; and the fourth partial stipulation was entered on February 7, 2022.

in AWEC’s Prehearing Brief, evidence on the record supports that \$15 million related to the Wildfire and Ice Storm Deferrals be amortized in this case. AWEC recommends in the alternative, however, that if the Commission declines to apply interest to these two deferrals at the Modified Blended Treasury (“MBT”) rate, the Commission should refrain from amortizing the Wildfire and Ice Storm Deferrals in this case and address amortization in a consolidated proceeding given outstanding questions regarding costs booked to the Wildfire Deferral.

Second, AWEC recommends the Commission adopt a Schedule 90 subtransmission rate. A Schedule 90 subtransmission rate is fair, just and reasonable and will further the public interest by giving newly eligible customers for Schedule 90 the same options they have currently under Schedule 89. Third, AWEC recommends the Commission reject PGE’s Schedule 150 nonbypassability proposal and revisit it in the appropriate dockets, UM 2024, and AR 651. Fourth, AWEC continues to recommend the Commission reject PGE’s proposal to initiate a single-issue general rate case (“GRC”) to address the Faraday Repowering project. Finally, AWEC recommends PGE’s Level III storm tracking proposal be rejected and that the current tracker be maintained.

II. ARGUMENT

A. The Commission should approve the Boardman Deferral in this case and initiate a new consolidated proceeding to evaluate all the Deferrals together.

PGE recommends that the Commission “[d]ecline to consider the Boardman, 2020 Wildfire, and 2021 Ice Storm deferrals in this docket and instead consider them in the specific dockets already opened for each deferral.”^{2/} PGE further recommends that “[i]f the

^{2/} PGE Prehearing Brief at 2:18-20.

deferrals are considered in this case,” the Commission “deny authorization of the unprecedented Boardman deferral, and decline to amortize costs in any of the deferrals until PGE’s 2021 Results of Operations Report (“ROO”) is available for earnings review purposes.”^{3/} As explained in further detail below, consideration of the three Deferrals in separate dockets is unnecessary and hinders judicial efficiency. Additionally, authorization of the Boardman Deferral in this case is reasonable, regardless of whether the Commission determines amortization treatment at this time.

i. The Commission should authorize the Boardman Deferral in this case regardless of whether the Commission determines amortization is appropriate at this time.

Contrary to PGE’s recommendation^{4/} and as explained in further detail below, authorization of the Boardman Deferral in this case is warranted, both statutorily and discretionarily. The Commission evaluates an application for deferred accounting in two phases.^{5/} First, the Commission must consider whether it meets the statutory requirements for a deferral under ORS 757.259(2).^{6/} If it does, as is the case here, then the Commission determines whether it should exercise its discretion to authorize the deferral.^{7/} As explained below, the authorization of the Boardman Deferral is justified because it meets the statutory requirements of ORS § 757.259(2)(e), constitutes a stochastic risk event, and the amount at issue is substantial.

The Boardman Deferral is statutorily warranted in this case in order to appropriately match costs and benefits for customers, and ensure PGE does not continue to earn

^{3/} PGE Prehearing Brief at 2:20-23.

^{4/} Id. at 42:1.

^{5/} Docket No. UM 1147, Order No. 05-1070, at 2 (Oct. 5, 2005).

^{6/} Id.

^{7/} Id. at 3.

a return on property that is no longer providing utility service.^{8/} PGE owns 90 percent of Boardman, resulting in a 518 MW net base capacity for the Company.^{9/} PGE's investment in Boardman is currently included in the Company's base rates established in UE 335 and will continue at the same level until May 9, 2022, the rate-effective date in this case. As the Commission is aware, Boardman was retired at the end of 2020 in accordance with Order No. 10-457.^{10/} Customers have received no benefits from Boardman since retirement, but continue to pay the costs of the unused and un-useful plant.

Pursuant to ORS § 757.355(1), PGE is statutorily prohibited from earning a rate on plant that is no longer used and useful, since “a public utility may not, directly or indirectly, by any device, charge, demand, collect or receive from any customer rates that include the costs of construction, building, installation or real or personal property not presently used for providing utility service to the customer.”^{11/} As explained by the Court of Appeals of Oregon, ORS § 757.355(1) ensures that “property that is not ‘reasonably necessary to and actually providing utility service’ is ineligible for either inclusion in the rate base or for a rate of return payable by utility customers,” and that this prohibition applies to “property that has ceased being used for the provision of services as well as property that has never been so used.”^{12/} As such,

^{8/} See ORS § 757.259(2)(e) (“...the Commission by order may authorize deferral of the following amounts for later incorporation in rates:...[i]dentifiable utility expenses or revenues, the recovery or refund of which the [C]ommission finds should be deferred 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.”); ORS § 757.355(1) (“...a public utility may not... collect or receive from any customer rates that include the costs of construction, building, installation or real or personal property not presently used for providing utility service to the customer.”).

^{9/} Portland General Electric Company, 2019 Integrated Resource Plan, Appendix E, at 276 (July 2019).

^{10/} Docket No. LC 48, Order No. 10-457 (Nov. 23, 2010).

^{11/} ORS § 757.355(1).

^{12/} Citizens' Util. Bd. v. PUC, 154 Or. App. 702, 708-710, 962 P.2d 744, 747-748 (1998).

authorization of the Boardman Deferral in this case is statutorily warranted both because it will appropriately match the costs of, and benefits received by, Boardman.

Because the Boardman Deferral is statutorily authorized, the Commission must determine whether to exercise its discretion and authorize deferral for later incorporation into rates. In executing its discretionary analysis, the Commission “consider[s] two interrelated factors: the type of event that caused the deferral; and the magnitude of the event’s effect.”^{13/}

In Order No. 04-108, the Commission, in the context of a power cost deferral, adopted Staff’s distinction between two types of risks that could lead to under-recovery of costs: risks referred to as “stochastic risks” and those referred to as “paradigm or scenario risks.”^{14/} Stochastic risk “can be predicted as part of the normal course of events[.]”^{15/} Stochastic risk is appropriate for deferred accounting if the magnitude of the financial impact of the event is substantial.^{16/} As noted above, Boardman was retired in accordance with Order No. 10-457.^{17/} Retirement of Boardman was therefore expected. The Boardman Deferral constitutes a stochastic risk event.

The Commission must then consider the magnitude of the Boardman retirement and determine whether it is substantial. The balance associated with the Boardman Deferral is \$109,904,915 as of May 9, 2022.^{18/} Based on the total cost of service revenue requirement provided by PGE,^{19/} the percentage revenue requirement impact is 5.29%. The \$109,904,915 in

^{13/} Docket No. UM 1147, Order No. 05-1070, at 3 (Oct. 5, 2005).

^{14/} Docket No. UM 1701, Order No. 04-108, at 8-9 (Mar. 2, 2004).

^{15/} Id. at 8.

^{16/} Id. at 9.

^{17/} Docket No. LC 48, Order No. 10-457 (Nov. 23, 2010).

^{18/} AWEC/301 Mullins/2

^{19/} See PGE Prehearing Brief, Attachment 1, at 1.

funds associated with the Boardman closure^{20/} is substantial in magnitude and “extraordinary enough to justify deferred accounting.”^{21/} Therefore, because the Boardman Deferral meets the statutory requirements of ORS 757.259(2) and the amount of revenue that will accrue as of the rate effective date of this case is substantial in magnitude, the Commission should authorize the Boardman Deferral in this case, regardless of whether it makes a determination regarding amortization.

- ii. **The Commission should initiate a new consolidated proceeding to evaluate the three Deferrals and either approve the approximate \$15 million in annual amortization related to the Wildfire and Ice Storm Deferrals in this case, with both deferrals earning interest at the MBT, or approve no amortization at this time.**

In addition to approving the Boardman Deferral, AWEC recommends that the Commission initiate a new consolidated proceeding to review and establish final amortization schedules for the three Deferrals. A consolidated proceeding supports judicial efficiency and furthers the public interest. Evidence on the record supports that \$15 million related to the Wildfire and Ice Storm Deferrals be amortized in this case.

PGE attempts to cast confusion over parties’ positions regarding the Deferrals, stating that they have “changed and diverged, broadening the scope of issues they seek to shoehorn into this rate case.”^{22/} The Commission, however, has already determined that the Deferrals are within the scope of this rate case, and to the extent AWEC’s position has changed in this proceeding, it is primarily due to additional information PGE provided during the case

^{20/} AWEC/301, Mullins/2.

^{21/} Docket No. UM 1071, Order No. 04-357, at 5 (Jun. 25, 2004).

^{22/} PGE Prehearing Brief, at 39:14-15.

showing continued concerning contributions to the Wildfire Deferral.^{23/} AWEC has full confidence in the Commission’s ability to understand the positions put forth by parties regarding the three Deferrals and determine the appropriate course of action.

As shown in AWEC’s testimony and briefing, in addition to initiating a new consolidated proceeding to evaluate the Deferrals, the Commission should amortize \$15 million related to the Wildfire and Ice Storm Deferrals in this proceeding. The balance associated with the Boardman Deferral is \$109,904,915 as of May 9, 2022.^{24/} Amortization of \$15 million related to the Wildfire and Ice Storm Deferrals is reasonable given the evidence on the record that shows that these Deferral balances may now exceed the Boardman Deferral.^{25/} The Commission should approve the approximate \$15 million in annual amortization, subject to refund. Such amortization would roughly balance the outstanding amounts in the Boardman deferral on one hand, and the Ice Storm and Wildfire deferrals on the other.^{26/}

PGE argues that AWEC’s recommendation regarding the amortization of \$15 million of the Wildfire and Ice Storm Deferrals subject to refund “is premature and would result in a piecemeal approach.”^{27/} PGE further states that “ordering amortization subject to refund should not reduce the interest rate on the deferral balance...a reduction in carrying charge occurs only after the utility is assured of cost recovery. If the amortized amount is subject to refund, then the risk of non-recovery has not been reduced, and the interest rate also should not be

^{23/} See AWEC/300, Mullins/4:1-9; 8:19-9:3.

^{24/} AWEC/301, Mullins/2.

^{25/} See AWEC/300 Mullins 3:8-12; 4:1-9.

^{26/} Id. at 3, Table 1.

^{27/} PGE Prehearing Brief at 48:3-5.

reduced.”^{28/} If the Commission accepts this argument, then AWEC does not advocate any amortization of any of the Deferrals in this case, due to concerns over the costs booked to the Wildfire Deferral in particular.

PGE states that “parties have not raised any major prudence challenges to the costs in the Emergency Deferrals.”^{29/} However, PGE goes on to contradict this statement, noting that AWEC “challenge[s] a few specific items included in the Emergency Deferrals...[and] also questioned whether the costs PGE is including in the Wildfire deferral are related to the 2020 event, noting that PGE continues to incur costs more than a year after the event ‘which may not be appropriately tied to the 2020 wildfire event.’”^{30/}

Given the outstanding questions regarding the Wildfire Deferral, the Commission could refrain from amortizing the Wildfire and Ice Storm Deferrals in this case and instead address amortization in a consolidated proceeding. A consolidated proceeding would allow for additional time for parties to review the costs being incurred and booked toward the Wildfire Deferral to determine whether they are indeed related to this deferral.

B. A Schedule 90 subtransmission rate is fair, just, and reasonable and will further the public interest.

As shown in AWEC’s testimony, briefing, and during the February 10th hearing, a Schedule 90 subtransmission rate is fair, just, and reasonable and will further the public interest. Because PGE has failed to present any compelling evidence in this case to the contrary, AWEC recommends the Commission adopt a Schedule 90 subtransmission rate.

^{28/} Id. at 48:7-11.

^{29/} Id. at 50:19-51:1.

^{30/} Id. at 51:1-2; 6-8, citing AWEC/300, Mullins/8-9.

PGE continues to argue that a subtransmission rate is not appropriate because only five customers are currently enrolled in the Schedule 89 subtransmission rate and “no new subtransmission services have been initiated under that schedule in the last 16 years.”^{31/} These two factors are immaterial to the Commission’s decision regarding whether to adopt AWEC’s proposed Schedule 90 subtransmission rate. AWEC has members today that are interested in a subtransmission rate.^{32/}

Adoption of a Schedule 90 subtransmission rate is simply logical given PGE’s proposal to reduce the eligibility threshold for Schedule 90 to 30 aMW. PGE’s current Schedule 90 tariff is based on a 100 aMW eligibility. As such, under PGE’s current tariffs, a new 40 aMW customer would take service under Schedule 89. That customer indisputably would be entitled to a subtransmission rate under Schedule 89. However, in accordance with PGE’s proposal in this case, that same 40 aMW customer would not be eligible for a subtransmission rate once it becomes eligible for Schedule 90.^{33/} PGE has never made a filing raising any of the concerns with a Schedule 89 subtransmission customer that it raises for a new Schedule 90 subtransmission rate that would serve the *exact same customers*. If PGE’s concerns regarding subtransmission rates were material, it is unclear why PGE has not made a filing to remedy these purported issues.

In opposition to AWEC’s proposed Schedule 90 subtransmission rate, PGE puts forth unfounded cost and safety concerns.^{34/} For instance, PGE argues that “there is currently no

^{31/} PGE Prehearing Brief, at 57:2-4 (internal citations omitted).

^{32/} AWEC/400, Kaufman/22:18-19.

^{33/} Hearing Audio at 26:31-28:36.

^{34/} PGE Prehearing Brief, at 56:16-57:1.

requirement for customers to upgrade their substations as safety standards change or the grid evolves.”^{35/} According to PGE, the Company “has experienced a number of issues with legacy subtransmission customers where the customer has failed to properly maintain a substation or neglected meaningful safety issues.”^{36/} In support of this statement, PGE cites its Surrebuttal Testimony in which the Company offered two examples of legacy subtransmission customers that have purportedly “impos[ed] a strain on the bulk electric system.”^{37/} However, during the February 10th hearing, PGE witness Robert MacFarlane stated that he was unaware of any reliability or safety issues to the bulk electric system as a result of these two examples.^{38/} While Mr. MacFarlane further stated that there are studies within PGE that support the Company’s claim that subtransmission service creates reliability concerns for the bulk electric system,^{39/} the Company did not put any of these purported studies into the evidentiary record. As the Commission is well aware, it must make a determination regarding the Schedule 90 subtransmission rate based on competent evidence on the record, which would require not only introduction of these studies, but the ability of other parties to review and test the assumptions within them.^{40/} Meanwhile, Mr. Macfarlane was unaware of any industry studies or studies from other utilities that indicated reliability concerns from a subtransmission rate.^{41/}

Regardless, PGE proposes a solution to its own unfounded concerns. The Company recommends that subtransmission customers be required to maintain their substations

^{35/} PGE Prehearing Brief, at 57:8-9 (internal citations omitted).

^{36/} Id. at 57:9-11 (internal citations omitted).

^{37/} PGE/3000, Macfarlane-Tang/22:3-16.

^{38/} Hearing Audio at 16:40-17:00.

^{39/} Hearing Audio at 17:31-17:33.

^{40/} See ORS 756.558(2)

^{41/} Hearing Audio at 17:09-17:34.

to the same standards as PGE. AWEC is not opposed to this condition being included in Schedule 90, which PGE could effectuate through contracts with the customer.

PGE also raises unfounded cost concerns associated with a subtransmission rate for Schedule 90. PGE explains that “[o]ffering a Schedule 90 subtransmission rate could also create upward price pressure on other customer classes.”^{42/} However, during the February 10th hearing, Mr. MacFarlane agreed that subtransmission customers pay their full cost of service.^{43/} Mr. MacFarlane further agreed that if a Schedule 90 customer requires a dedicated substation and takes primary service from PGE, PGE will incur the costs to construct that new substation and rate base its investment, and further, that PGE would not incur those costs and that additional rate base if the customer builds and owns that substation under a subtransmission rate.^{44/} Accordingly, there is no cost impact to other customers from a subtransmission rate, and there is potentially a cost savings to customers by virtue of a lower rate base for PGE.

PGE states that “a subtransmission customer typically bypasses distribution substations and pays about half the distribution rates paid by customers served by secondary and primary service. If a Schedule 90 customer were to go to direct access, the resulting revenue deficiency from loss of distribution charges would require additional fixed costs to be allocated to non-participating customers. PGE believes this cost-shifting is an unintended consequence that the Commission must consider before PGE offers a subtransmission rate.”^{45/} This is nothing but the same unsubstantiated fearmongering of cost-shifting PGE has employed in several recent

^{42/} PGE Prehearing Brief, at 57:12-13

^{43/} Hearing Audio at 22:50-23:14.

^{44/} Hearing Audio at 23:18-24:10.

^{45/} PGE Prehearing Brief, at 57:13-18 (internal citations omitted).

dockets associated with direct access. During the February 10th hearing, Mr. MacFarlane provided no specific examples regarding how a subtransmission customer would create stranded distribution costs.^{46/} Given Mr. Macfarlane’s admission that subtransmission customers pay their full cost of service and would continue to pay distribution charges to PGE when on direct access, the creation of such stranded costs would seem to be impossible. Regardless, in Docket Nos. UM 2024 and AR 651, stakeholders are currently engaging in an investigation into long-term direct access programs. Within those dockets, stakeholders may raise, and the Commission may investigate, any potential risks associated with PGE’s concerns.

The ongoing direct access dockets should not, however, delay the Commission’s approval of a subtransmission rate in this case. To implicate PGE’s theoretical, unexplained, and unsubstantiated cost-shifting concerns, PGE would first need to implement the proposed Schedule 90 subtransmission rate, which could not occur until May of this year. Any customer who chooses service on the subtransmission rate would, by definition, be a new customer. That customer would need to build and energize its facility and then transition to direct access, currently paying five years of transition charges.^{47/} Taken together, this process would take at least 7 years. This is more than enough time to allow stakeholders and the Commission to thoroughly investigate and resolve any potential risks in UM 2024 and AR 651 before those risks materialize.

As described above, PGE has failed to present compelling evidence in its opposition to AWEC’s Schedule 90 subtransmission proposal. Not only is a Schedule 90 subtransmission

^{46/} Hearing Audio at 23:45-45:38

^{47/} See Portland General Electric Company, Schedule 129 Long-Term Transition Cost Adjustment, Tenth Revision of Sheet No. 129-1.

rate indisputably cost-based, but it is also logical given PGE’s proposal to lower the Schedule 90 eligibility threshold. AWEC therefore recommends the Commission adopt a Schedule 90 subtransmission rate.

C. The Commission should reject PGE’s proposal to initiate a single-issue general rate case to address the Faraday Repowering project.

Final costs and the in-service date associated with the Faraday Repowering project remain unknown. PGE has presented no evidence in testimony, briefing, or during the February 10th hearing to dispute this. As such, the Faraday Repowering project should be considered when final costs and prudence can be evaluated. PGE requests that the Commission “[o]pen Phase II of Docket UE 394 to allow parties to evaluate the prudence of the Faraday Repowering project and permit PGE to incorporate the prudently incurred repowering costs for this non-emitting, capacity resource into rates once the project is placed in service in the fourth quarter of 2022.”^{48/}

In its Prehearing Brief, PGE notes that “the project was originally expected to be complete before the rate-effective date of this case, multiple challenges, including extreme weather, wildfires and COVID-19, delayed construction.”^{49/} Although PGE acknowledges some of the delays that contribute to the project’s delayed in-service dates, the Company fails to note the current and potential delays associated with the project’s new contractor. When considering the Faraday Repowering project, it is necessary that all factors associated with the delayed in-service date be considered.

^{48/} PGE Prehearing Brief, at 2:1-4.

^{49/} Id. at 8:5-7 citing PGE/700, Jenkins-Cristea/5; PGE/1900, Bekkedahl-Cristea/23-24, 27.

PGE states that AWEC “criticize[s] the delays experienced by the repowering project”^{50/} but reasons that “the delays resulted from a variety of factors outside PGE’s control[.]”^{51/} As PGE has agreed to remove the prudence of Faraday repowering from consideration in this case, whether the delays associated with this project were within PGE’s control or not is irrelevant at this time. The important point is that the delays have materially affected the in-service date of the project, which remains uncertain. PGE states that “the current expected in-service date is in the fourth quarter of 2022.”^{52/} However, PGE provides no compelling evidence in support of this statement to reassure the Commission or parties that Faraday will in fact be in service in the fourth quarter of 2022. Because there is no way of knowing what additional delays may occur, it is unreasonable for the Commission to approve PGE’s proposal to initiate a phase II general rate case to address Faraday. Such an action would be premature given the potential for further delays and unknown in-service date.

PGE states that it “envisions that the second phase will include three rounds of testimony, a hearing if desired, and briefing.”^{53/} According to PGE, “[t]his process will provide parties a full opportunity to review and litigate the prudence of the repowering project when the project is nearly complete. Considering Faraday in a Phase II of this case is also more efficient than requiring PGE to file a new rate case to include Faraday in the near future.”^{54/}

AWEC has continuously expressed concern regarding when Faraday should be considered for prudence. PGE’s reasoning in support of its Phase II proposal does not alleviate

^{50/} PGE Prehearing Brief, at 10:6.

^{51/} Id. at 10:7.

^{52/} Id. at 8:7-8 citing PGE/1900, Bekkedahl-Cristea/27; PGE/2600, Bekkedahl-Tinker /

^{53/} Id. at 11:5-6.

^{54/} Id. at 11:6-9.

those concerns but rather furthers them. As PGE states, the project with its current timeline will not be completed when the Phase II process takes place. Contrary to PGE's statement, parties will not have a full opportunity to litigate the prudence of Faraday because Phase II would happen prior to Faraday being placed in-service when final costs remain unknown. As noted in AWEC's prehearing brief, PGE has yet to provide an updated budget estimate associated with the new in-service date.^{55/} Additionally, although efficiency is a laudable goal, it should not be at the cost of customers' ability to thoroughly review the project for prudence, especially considering the substantial concerns parties have raised regarding the prudence of the Faraday repowering project.

PGE states that "AWEC argued that if Faraday is considered outside PGE's next GRC, parties should be allowed to raise any relevant issues that may impact PGE's revenue requirement. However, there is ample precedent allowing a major asset into rates months after the effective date of a GRC without requiring a utility to file an entirely new GRC. For example, the Commission approved a tariff filing under which Port Westward could become operational up to eight and a half months after the rates in PGE's rate case took effect without automatically requiring a new rate case."^{56/} As AWEC's rebuttal testimony clearly demonstrated, Faraday is materially different from previous cases PGE cites.^{57/}

In Order No. 07-015, the Commission approved a rate increase to recover costs of Port Westward once the plant went into service.^{58/} However, approval was contingent on Port

^{55/} AWEC Prehearing Brief, at 19-20.

^{56/} PGE Prehearing Brief, at 11:12-17 citing AWEC/300, Mullins/19; In re Portland Gen. Elec. Co., Request for a Gen. Rate Revision, Docket Nos. UE 180/UE 184, Order No. 07-015 at 50 (Jan. 12, 2007).

^{57/} AWEC/300, Mullins/18:12-19:21.

^{58/} Docket Nos. UE 180, 181, and 184, Order No. 07-015, at 1 (Jan. 12, 2007).

Westward becoming operational within 60 days of the specific in-service date, April 30, 2007.^{59/} The Commission further set forth a process if the plant became operational on or after April 30, 2007 and before September 1, 2007 that allowed Staff and intervenors to have 15 days from the online date to determine whether there was new information that required a re-examination of PGE's costs in rates. Finally, if Port Westward was not operational until after September 1, 2007, PGE was required to file an entirely new rate case to add the plant to rate base when it met the used and useful standard.^{60/}

PGE's statement that "the Commission approved a tariff filing under which Port Westward could become operational up to eight and a half months after the rates in PGE's rate case took effect without automatically requiring a new rate case[.]"^{61/} is therefore misleading. The Commission approved a tariff filing under which Port Westward could become operational up to eight and a half months after the rates in PGE's rate case took effect and Staff and intervenors had the opportunity determine whether there is new information that required a re-examination of PGE's costs in rates. PGE has made no such suggestion in its Phase II proposal regarding the Faraday in-service date and examination of costs. Further, unlike here, PGE "computed Port Westward in rates that would be in effect only during the period when the plant would be in service[.]"^{62/} As stated throughout this Opening Brief, the in-service date for Faraday is unknown and therefore it is impossible to determine final costs prior to Phase II.

Port Westward, and the process for including it in rates, also shares many

^{59/} Id. at 50.

^{60/} Id.

^{61/} PGE Prehearing Brief, at 11:12-17 citing AWEC/300, Mullins/19; In re Portland Gen. Elec. Co., Request for a Gen. Rate Revision, Docket Nos. UE 180/UE 184, Order No. 07-015 at 50 (Jan. 12, 2007).

^{62/} Docket Nos. UE 180, 181, and 184, Order No. 07-015, at 49 (Jan. 12, 2007).

characteristics with the Carty Generating Station (“Carty”), which the Commission approved a tariff rider for in Docket No. UE 294 to accommodate the late in-service date. Similar to Port Westward, “Carty was a major power plant with a nominal capacity of 450 MW.”^{63/} Prior to approval, Carty “was selected in PGE’s 2009 Integrated Resource Plan (“IRP”) and underwent a rigorous request for proposal (“RFP”) process, reviewed by all parties and the Commission. At the time Carty was put into rates, it had been studied by stakeholders and the Commission for approximately 7 years[.]”^{64/} Unlike the Faraday Repowering project, “there were no questions regarding the decision to build [Carty].”^{65/} Further dissimilar from Carty, the Faraday Repowering project was not considered in an IRP nor RFP process and “results in a mere 1.8 aMW of incremental capacity to the system[.]”^{66/} Additionally, “the Carty rider was approved through a stipulation in the 2015 GRC” in which “PGE made a firm commitment to stakeholders that it would not exceed its initial budget and that the facility would be in service by July of 2016, the originally planned in service date.”^{67/} Here, parties to this case do not agree on the treatment of the Faraday Repowering project, nor has PGE made any commitments regarding budget or planned in-service date. Indeed, Faraday is already wildly over budget.^{68/} Contrary to PGE’s statements, Faraday is unlike prior instances where the Commission allowed an asset into rates months after the effective date of a GRC and, therefore, it should not be eligible for such extraordinary treatment.

^{63/} AWEC/300 Mullins/18:13.

^{64/} Id. at 18:13-16.

^{65/} Id. at 18:16-17.

^{66/} Id. at 18:18-20.

^{67/} Id. at 18:22-19:2.

^{68/} Id. at 16:16-17:1.

PGE further states that the Company “estimates that when Faraday is placed in-service, customers will be benefitting from an additional \$100 to \$120 million of net plant that will be placed in-service after the rate-effective date of this case and therefore will not be incorporated into rates until PGE’s next GRC. Thus, bringing Faraday into rates without another full rate case actually benefits customers.”^{69/} Regulatory lag associated with unrelated capital projects is irrelevant to a determination of whether Faraday should be subject to a separate proceeding. PGE is always free to file a rate case if this lag is materially affecting its earnings. As Mr. Mullins notes in the context of the Boardman deferral, however, regulatory lag is only one component of the Company’s overall earnings, which also includes additional revenue that PGE does not consider.^{70/} It is also one-sided and contradictory for PGE to raise concerns about regulatory lag it may incur on assets between rate cases while simultaneously seeking to retain the benefits of this lag for its shareholders with respect to the Boardman Deferral.

Ultimately, when the Faraday Repowering project should be considered for prudence is a simple procedural question; the project should be considered when final costs and prudence can be evaluated. Under PGE’s proposal, final costs and prudence will not be properly evaluated. Therefore, PGE’s proposal should be rejected and no determination regarding Faraday should be made in this case. Alternatively, if the Commission adopts PGE’s proposal, the phase II proceeding should not commence until after the project is in service. The Commission should further allow parties to the proceeding to raise any relevant issues that may impact PGE’s overall revenue requirement, not just the Faraday Repowering project in order to

^{69/} PGE Prehearing Brief, at 12:10-14.

^{70/} AWEC/300, Mullins/7:6-14.

mitigate single-issue ratemaking concerns. If only Faraday is considered in a subsequent proceeding, there is substantial risk of the Company over-collecting its total costs.

D. PGE has failed to present the evidence necessary to support adoption of its Schedule 150 nonbypassability proposal.

PGE’s Schedule 150 nonbypassability proposal should be rejected because the Company has failed to meet its burden of proof. Without an adequate evidentiary basis, the Commission may not approve PGE’s proposed cost allocation method and should therefore reject PGE’s proposal and revisit this issue in Docket No. UM 2024.

PGE argues that “Schedule 150 charges should be allocated to all users of the system, including direct access customers.”^{71/} In support of its proposal, the Company reasons that “[t]he additional transportation electrification costs PGE seeks to add to Schedule 150 fall squarely within the category of costs the Commission has deemed to benefit all customers.”^{72/} As explained in AWEC’s Prehearing Brief, ORS 757.357(5) sets forth transportation electrification infrastructure measures that benefit utility customers.^{73/} Notably, PGE has failed to cite ORS 757.357(5) in testimony or briefing. PGE states that its transportation electrification

^{71/} PGE Prehearing Brief, at 54:15-16.

^{72/} PGE Prehearing Brief, at 55:4-5 citing (See e.g., In re Portland Gen. Elec. Co., Advice No. 20-09 (ADV 112), Schedule 136 Cost Recovery Mechanism, Docket UE 380, Order No. 20-173 at 2 (May 28, 2020) (concluding the Community Solar Program is a legislatively mandated program intended to provide for broad public, customer, and community benefits such that all customers should contribute to the recovery of program costs and adopting PGE’s proposed cost-allocation methodology for start-up costs as an interim cost-allocation methodology while Docket UM 2024 is pending) (other internal citations omitted).

^{73/} AWEC Prehearing Brief, at 17; ORS 757.357(5) (“An infrastructure measure to support transportation electrification is a utility service and a benefit to utility customers if the infrastructure measure can be reasonably anticipated to: (a) Support reductions of transportation sector greenhouse gas emissions over time; and (b) Benefit the electric company’s customers in ways that may include, but need not be limited to: (A) Distribution or transmission management benefits; (B) Revenues to utilities from electric vehicle charging to offset utilities’ fixed costs that may otherwise be charged to customers; (C) System efficiencies or other economic values inuring to the benefit of customers over the long term; or (D) Increased customer choice through greater transportation electrification infrastructure deployment to increase the availability of and access to public and private electric vehicle charging stations.”).

efforts support statewide decarbonization goals, climate-change mitigation, and improve public health and safety.^{74/} Maybe, but PGE has not specified or quantified these benefits in any of its filings supporting its EV programs or in this rate case, nor has it determined what, if any, other benefits to the electric system inure from these programs. Because PGE has not yet identified what the benefits are from its EV pilot programs, it is currently impossible to determine a fair a reasonable allocation of these costs to direct access customers.

PGE continues to request the Commission “approve PGE’s proposed Schedule 150 in this case, recognizing that the Commission expects to revisit these issues in the future in Docket UM 2024, the Commission’s current direct access investigation.”^{75/} As explained in AWEC’s Prehearing Brief, there is no evidentiary basis for PGE’s proposal. ORS 756.558(2) requires that the Commission “prepare and enter findings of fact and conclusions of law upon the evidence received[.]”^{76/} PGE has failed to carry its burden. Based on the record in this case, the Commission may not adopt PGE’s Schedule 150 cost allocation proposal. As such, the Commission should reject PGE’s proposal and revisit this issue in UM 2024.

E. PGE’s current level III storm methodology should be retained.

PGE has presented no compelling evidence to support the Commission deviating from the current Level III storm methodology. PGE requests that the Commission “[a]pprove PGE’s proposed revisions to the Level III outage mechanism to allow balances to go negative and apply sharing, which complies with the Commission’s direction from prior cases.”^{77/}

^{74/} PGE Prehearing Brief, at 55:6-9.

^{75/} Id. at 56:5-8.

^{76/} ORS 756.558(2).

^{77/} PGE Prehearing brief at 2:15-17.

In Rebuttal Testimony, AWEC raised multiple issues regarding PGE’s proposal that went wholly unaddressed by the Company in testimony and briefing. Specifically, in explaining the adequacy of the current methodology to capture the impacts of climate change, Mr. Mullins stated that “[t]he accelerating effects of climate change on storms...cannot readily be isolated to a period of less than 10 years, rendering the 10-year average inadequate. The devastating effects of Hurricane Sandy, for example, occurred in 2012 and were largely attributed to climate change.”^{78/}

Mr. Mullins further noted that “PGE’s analysis demonstrates that the distribution of Level III storm costs has been relatively uniform over time.”^{79/} Mr. Mullins provided evidence that PGE’s analysis in which the Company reviewed 26 years of storm costs is, in fact, fundamentally flawed.^{80/} To remedy these flaws, Mr. Mullins performed his own analysis which ultimately showed that Level III storm costs declined over the appropriate 27-year period.^{81/} Mr. Mullins further explained that even under PGE’s analysis, “only slightly more than half of the Level III storm costs occurred in the second half of the 26-year period[.]”^{82/} PGE failed to dispute any of the arguments and analysis put forth by Mr. Mullins in the Company’s Prehearing Brief.

Finally, Mr. Mullins explained that “a slight increase in storm costs over time is expected, since more storms will qualify for Level III treatment due to inflation and as a result of the expansion to PGE’s service area. With more equipment in service, more needs to be repaired

^{78/} AWEC/300, Mullins/21:3-9.

^{79/} Id. at 21:12-13.

^{80/} See id. at 21:13-18.

^{81/} See id. at 21:19-23.

^{82/} See id. at 22:1-7.

in the context of a Level III storm.”^{83/} Accordingly, “[t]hese impacts...are fairly captured in the context of the 10-year average.”^{84/} Of concern is PGE’s continuous and blatant mischaracterization of AWEC’s position on this point. PGE states that “AWEC also appears to recognize that the 10-year average is inadequate, although AWEC nevertheless opposes changes to the mechanism.”^{85/} Contrary to this statement, and as this Opening Brief demonstrates, AWEC’s position that the current 10-year average *is* adequate has been clear and consistent throughout this case.

PGE has failed to provide sufficient evidence to support a systematic change to the way Level III storm costs are recovered. Deviation from the Company’s current Level III storm mechanism is unwarranted. Therefore, the Commission should reject PGE’s proposed balancing account and retain the existing Level III storm mechanism.

III. CONCLUSION

For the foregoing reasons, AWEC recommends that the Commission grant the following relief, which will yield overall rates for PGE that are fair, just, and reasonable and policy decisions that further the public interest:

- (1) Approve the Boardman Deferral in this case and initiate a new consolidated proceeding to evaluate the Wildfire Deferral, Ice Storm Deferral, and Boardman Deferral and either approve the approximate \$15 million in annual amortization related to the Wildfire and Ice Storm Deferrals in this case, with both deferrals earning interest at the MBT, or approve no amortization at this time;
- (2) Adopt AWEC’s proposed Schedule 90 subtransmission rate;
- (3) Reject PGE’s nonbypassability proposal for Schedule 150;

^{83/} AWEC/300 Mullins/22:8-11.

^{84/} Id. at 22:11.

^{85/} PGE’s Prehearing Brief at 37:4-6.

- (4) Reject PGE's 2022 GRC - Phase II proposal for the Faraday Repowering project;
- (5) Reject PGE's proposed balancing account and retain the existing Level III storm mechanism; and
- (6) Approve the four partial stipulations as filed.

Dated this 22nd day of February, 2022.

Respectfully submitted,

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