

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 2119

In the Matter of

ALLIANCE OF WESTERN ENERGY
CONSUMERS and OREGON CITIZENS'
UTILITY BOARD

Application for an Accounting Order Requiring
Portland General Electric Company to Defer
Expenses and Capital Costs associated with the
Boardman Power Plant.

**Comments of Portland General
Electric Company**

1 **Introduction**

2 Pursuant to OAR 860-027-0300(6), PGE submits these Comments on the Alliance
3 of Western Energy Consumers (“AWEC”) and the Oregon Citizens’ Utility Board
4 (“CUB”) joint application (“Application”) to the Public Utility Commission of Oregon
5 (“Commission”) for an order requiring PGE to defer costs associated with the Boardman
6 Plant (“Boardman”).

7 The Commission has not to our knowledge ever required the removal of retired
8 assets between rate cases and the Commission should not do so here. Should a deferral be
9 authorized by the Commission, PGE would expect both an earnings review and appropriate
10 threshold amounts to apply.

11 **Discussion**

12 CUB’s and AWEC’s Application reflects a novel and unsupported change in the
13 interpretation of Oregon law and the Commission’s ratemaking principles and practices. In
14 particular, the Commission has not to our knowledge ever required the removal of retired

1 assets between rate cases, which is essentially what CUB and AWEC are requesting. The
2 Commission should decline to accept CUB's and AWEC's invitation to depart from long-
3 standing ratemaking principles according to which plant investments may be retired
4 between rate cases without immediate removal from rates.

5 Beginning January 1, 2021, Boardman will be fully depreciated, with no net plant
6 amounts remaining on PGE's books. In the Trojan remand (Docket No. UM 989), the
7 Commission found that if rates are just and reasonable, not discriminatory, and not
8 confiscatory, they are legal even if the rates include depreciation expense and a return for
9 a retired plant.¹ The Court of Appeals directly affirmed on this point² and the Supreme
10 Court found that "the fact that rates include a component that is prohibited by statute does
11 not necessarily mean that ratepayers have been injured."³

12 Additionally, in determining if approval of AWEC's and CUB's Application is
13 warranted, PGE expects treatment consistent with prior Commission decisions regarding
14 the type of risk associated with these deferred amounts (i.e., scenario vs stochastic risk)
15 and the magnitude of threshold amounts consistent with the type of risk in warranting the
16 need for, or amounts subject to, deferred accounting treatment. PGE also notes that
17 consistent with any request made at the Commission, the burden of proof that this
18 application meets the standards for deferred accounting treatment falls to AWEC and CUB
19 as the initial applicants to this proceeding.

20 Finally, should the Commission authorize CUB's and AWEC's deferral, PGE
21 expects an earnings review to occur, pursuant to ORS 757.259(5) and OAR 860-027-

¹ Commission Order No. 08-487, page 21.

² Gearhart v. Pub. Util. Comm'n of Oregon, 255 Or App 58, 94, 299 P3d 533, 555 (2013).

³ Gearhart v. Pub. Util. Comm'n of Oregon, 356 Or 216, 237 n. 15, 339 P3d 904, 917 (2014).

1 0300(9). Even without the cost of Boardman, PGE does not expect to over earn compared
2 to its current allowed return on equity of 9.5%. PGE has in fact continued to make
3 substantial investments that are not currently reflected in customer prices. This is
4 evidenced by PGE's regulated rate base, which was reported as approximately \$4.946
5 billion at year-end 2019⁴ and considerably higher (even after accounting for Boardman)
6 compared to a 2018 year-end rate base amount of \$4.745 billion, which was approved and
7 used to set customer prices by Commission Order No. 18-464 (Docket No. UE 335).

8 **Conclusion**

9 For the foregoing reasons, PGE recommends that the Commission decline to
10 approve the Application filed by AWEC and CUB. Boardman depreciation and return are
11 more than offset by PGE's incremental rate base investments that are not yet included in
12 rates and PGE is not expected to earn more than its authorized return between now and its
13 next planned general rate case, even accounting for continuing recovery based on a forecast
14 including Boardman. Should the Commission grant AWEC's and CUB's deferral
15 application, PGE expects an earnings review to occur and threshold amounts, consistent
16 with historical precedent, to apply.

Respectfully submitted,

\s\ Jaki Ferchland

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⁴ From PGE's 2019 Results of Operations Report.