

# Davison Van Cleve PC

Attorneys at Law

TEL (503) 241-7242 • FAX (503) 241-8160 • jog@dvclaw.com  
Suite 450  
1750 SW Harbor Way  
Portland, OR 97201

May 26, 2021

## *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,  
Detailed Depreciation Study of Electric Utility Properties.  
**Docket No. UM 2152**

Dear Filing Center:

Please find enclosed the Alliance of Western Energy Consumers' ("AWEC")  
Reply to Portland General Electric Company's Response to AWEC's Motion to Compel  
Discovery 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**

**UM 2152**

In the Matter of	)	
	)	
PORTLAND GENERAL ELECTRIC	)	REPLY OF THE ALLIANCE OF
COMPANY,	)	WESTERN ENERGY CONSUMERS
	)	
Detailed Depreciation Study of Electric Utility	)	
Properties.	)	
_____	)	

**I. INTRODUCTION**

Pursuant to OAR § 860-001-0420(5) and the Administrative Law Judge’s May 3, 2021 Ruling in the above-referenced docket, the Alliance of Western Energy Consumers (“AWEC”) files this Reply to Portland General Electric Company’s (“PGE” or “Company”) Response to AWEC’s Motion to Compel Discovery.

PGE objects to AWEC’s Motion to Compel, but its arguments are entirely based on misrepresentations of AWEC’s position or factual misstatements. AWEC has requested that PGE provide the results of its depreciation study in a machine-readable format so that this data can be properly and accurately audited. As this data is the basis for all of PGE’s recommended depreciation rates, AWEC has a compelling need for this information to be provided in a useable form. Moreover, as the Response from the Oregon Citizens’ Utility Board (“CUB”) demonstrates, this issue is not unique to AWEC. To the extent, however, that the Commission agrees with PGE that producing the data in the requested form in this case would be overly burdensome to the Company, AWEC has requested as an alternative that the Commission open

an investigation to establish minimum filing requirements for utilities in depreciation cases. As PGE's consultant, Gannett Fleming, performs nearly all of the depreciation studies for the utilities the Commission regulates, such an investigation is proper and necessary. PGE's Response does not change these conclusions.

## II. ARGUMENT

### A. **PGE is the only party that can provide the information AWEC requests in a form that ensures its accuracy and the burden PGE faces in providing it is unrelated to any Commission requirements.**

PGE's Response can be summarized in three main arguments. First, PGE claims that it has already provided the information AWEC requests and AWEC can convert this information itself to a different format. Second, it argues that reprogramming Gannett Fleming's software would be unduly burdensome for this case. Third, it claims that no one has ever asked for the outputs from Gannett Fleming's software to be provided in the format AWEC requests.

With respect to the first argument, PGE states that AWEC "can convert the Output Data into its requested format" and that "[w]hile this conversion process may take time, neither Dr. Kaufman nor AWEC claims that this task is impossible with the information they already possess."<sup>1/</sup> While it is true that AWEC can perform the physical task of manually convert the data from Word format, PGE ignores its own admission that this conversion process "could distort the data and provide inaccurate results."<sup>2/</sup> Thus, the mere fact that AWEC can convert the outputs provided is beside the point. Analysis of an inaccurate end product does not provide the Commission with a useful record on which to base a decision. Only by converting

---

<sup>1/</sup> PGE Response at 6.

<sup>2/</sup> AWEC Motion to Compel, Att. B.

the software itself to produce machine-readable outputs can the accuracy of these outputs be assured if they are to be analyzed by other parties.

Therefore, contrary to PGE's claim, "the capability to prepare [the data AWEC requests in a useable format] *is* possessed uniquely by [PGE]."<sup>3/</sup> As the owner of the depreciation study filed in this case, and as the contractor with the consultant who developed that study, PGE is the only "party" capable of providing the data requested.

PGE claims, however, that it has no greater ability to convert the outputs to machine-readable format than AWEC.<sup>4/</sup> Maybe so, but AWEC's Motion, if approved, does not compel PGE to perform the conversion. It simply requests that the outputs be provided in machine-readable format. If PGE chooses to comply with that request by performing the conversion itself, then that is on PGE along with any inaccuracies that result from the conversion. This is appropriate, as PGE is the party with the burden of proof in this case – if it wishes to take the risk that its filing will contain errors, that is its decision. Alternatively, PGE can request that Gannett Fleming reprogram its model to provide the outputs directly into machine-readable format. Whether Gannett Fleming agrees to do this is between PGE and Gannett Fleming; it is neither AWEC's nor the Commission's concern. Just as the Commission found in Order 03-533 that "AT&T and WorldCom's decision to employ a third party to supply important model inputs should not insulate them from the duty to disclose relevant information about their model,"<sup>5/</sup> PGE's decision to employ a third party to perform its depreciation study

---

<sup>3/</sup> OAR 860-001-0500(4) (emphasis added); PGE Response at 5.

<sup>4/</sup> PGE Response at 6.

<sup>5/</sup> Docket No. UM 1025, Order No. 03-533 at 7 (Aug. 8, 2003).

should not insulate it from the obligation to provide the data underlying that study in a useable form to the parties in this case.

PGE further states that it “provided AWEC the Input Data in its native format, Microsoft Excel. With this data, AWEC possesses the capability to reproduce the results of the Depreciation Study to conduct its own statistical analyses.”<sup>6/</sup> This information is useless to AWEC for the purposes of auditing Gannett Fleming’s depreciation study. This is so not only because PGE has not identified the steps that were used to convert the inputs to outputs, but also because even if those steps were provided, the outputs cannot be compared to the outputs from Gannett Fleming’s model and, therefore, would not identify errors from Gannett Fleming’s model, if any exist.<sup>7/</sup>

PGE also claims that “AWEC’s motion requests that the Commission require PGE’s third-party consultant to reprogram its depreciation software to produce the data in a ‘machine-readable format’ for easier entry into AWEC’s modeling software.”<sup>8/</sup> This misrepresents AWEC’s Motion. The need for a machine-readable format is not because it integrates into AWEC’s modeling software, it is because it integrates into any software whatsoever. In other words, AWEC is not asking for a format that is uniquely beneficial to it; a format that integrates with Microsoft Excel or any other widely used program is sufficient. Additionally, as stated above, AWEC’s Motion does not request that the Commission require PGE’s third-party consultant to reprogram its depreciation software. It only requires that the data be provided in the format requested, however PGE chooses to achieve this.

---

<sup>6/</sup> PGE Response at 3.

<sup>7/</sup> AWEC Reply, Attachment A (Kaufman Affidavit).

<sup>8/</sup> PGE Response at 1.

PGE’s second argument – that reprogramming Gannett Fleming’s software is overly burdensome – is misleading for at least two reasons. As discussed above, granting AWEC’s Motion would not require Gannett Fleming to reprogram its software – Gannett Fleming is a private party over which the Commission has no jurisdiction. Whether Gannett Fleming chooses to reprogram its software in response to a Commission order granting AWEC’s Motion is up to PGE and Gannett Fleming. PGE could, alternatively, convert the existing outputs from this software to a machine-readable format and take the risk that errors or inaccuracies will occur as a consequence. There is even a third alternative, in which Gannett Fleming provides AWEC with access to the source code for its proprietary model and AWEC could do the reprogramming itself. AWEC’s Motion is not prescriptive in the “how,” only in the “what.”

Further, PGE claims that if Gannett Fleming did reprogram its software, “it would necessitate an ISO recertification process ....”<sup>9/</sup> But nothing in the Commission’s rules or any other applicable requirements necessitates that PGE provide a depreciation study that is certified under ISO standards – that is simply an extra step Gannett Fleming has chosen to take. Moreover, neither PGE nor Gannett Fleming identifies what ISO standard Gannett Fleming’s depreciation model is certified under, or what relevance that certification has to this docket. Gannett Fleming’s website states that it is certified under ISO 9001:2015.<sup>10/</sup> If that is the applicable standard, though, then it is difficult to understand how reprogramming the company’s depreciation software would require recertification. ISO 9001:2015 is a quality management

---

<sup>9/</sup> PGE Response at 8.

<sup>10/</sup> <https://www.gannettfleming.com/quality>

standard that applies to the overall processes a company employs. As Gannett Fleming states, their “Quality Management System” “defines the processes we use to execute every project across the firm, regardless of scope or scale .... We verify consistent companywide adherence to our QMS through intensive internal audits in each of our worldwide locations ....”<sup>11/</sup> If a single change to a single piece of software necessitated an entire recertification process under this ISO standard, it is difficult to understand how the company could function. Regardless, even if the existing depreciation software would need to be recertified under some ISO standard, there is no obvious reason why Gannett Fleming cannot provide the certified outputs in the format it has already provided, and also a machine-readable version of the same outputs that are not certified.

PGE’s third argument – that this is the first time a party has requested the outputs from Gannett Fleming’s model in a machine-readable format – is simply wrong. As shown in Attachment B to this Reply, in PacifiCorp’s 2018 depreciation study before the Washington Utilities and Transportation Commission, the Public Counsel Unit of the Washington Attorney General’s Office and Boise White Paper, LLC requested that PacifiCorp “provide the retirement rates calculated by Mr. Spanos for each property group. Please provide such data as a computer-readable spreadsheet.” As with PGE’s response to AWEC’s data request 002 in this case, PacifiCorp only provided the information “in native MS Word format.”<sup>12/</sup> AWEC asked the same question in PacifiCorp’s companion depreciation study in Oregon, as shown in Attachment C to this Reply, and received the same response.<sup>13/</sup> Without either a requirement that PGE produce the information in the form requested in this case or an investigation to establish

---

<sup>11/</sup>

Id.

<sup>12/</sup> AWEC Reply, Attachment B.

<sup>13/</sup> AWEC Reply, Attachment C.

minimum filing requirements, AWEC can continue to make this request, but there is no reason to believe the response will ever change.

**B. The Commission should open an investigation to establish minimum filing requirements for depreciation studies if it does not compel PGE to provide the requested information in this case.**

PGE repeatedly states that converting the outputs from Gannett Fleming's model into a useable form requires approximately ten hours of work, apparently suggesting that this is minimal effort that the Commission should countenance.<sup>14/</sup> This position, however, misses the broader context. For one, this ten hours of work is necessary simply to get the data into a format that allows for analysis in the first place. It is incremental to the actual work AWEC has retained its consultant to perform. Moreover, that ten hours of work is necessary with each and every depreciation study Gannett Fleming performs. AWEC pays its consultants an hourly rate. With five Oregon regulated utilities using Gannett Fleming to develop their depreciation studies, if AWEC audited every one of these studies (which are typically filed every five years), that is thousands of dollars AWEC must expend simply for its consultant to organize the data into a useable form. That does not count any other analyst that wishes to do a similar analysis in Oregon, let alone any of the other 50 states in which Gannett Fleming performs these studies.<sup>15/</sup> CUB's Response in support of AWEC's Motion demonstrates that AWEC's concern is not unique to it. This is an absurd waste of time and resources and demonstrates why a more general investigation is necessary.

---

<sup>14/</sup> PGE Response at 6 & 9.

<sup>15/</sup> J. Spanos Declaration ¶ 10.



Nevertheless, PGE argues that this docket is not the appropriate forum to open a broader investigation, stating that “it should not be considered without notice to and responses from all interested parties.”<sup>16/</sup> But because all interested parties except Cascade Natural Gas use the same depreciation consultant, they are all similarly situated to PGE. Moreover, the Commission has plenary authority to open investigations – nothing requires it to provide notice to interested persons before it opens one: “Whenever the Public Utility Commission believes ... that an investigation of any matter relating to any public utility ... should be made ... the commission may on motion *summarily* investigate any such matter, *with or without notice.*”<sup>17/</sup> Notice is not required because the mere act of opening an investigation does not impact the rights of any interested person, as it does not commit any interested person or the Commission to a particular outcome. Any party to an investigation opened in response to this Motion can take any position it wants on minimum filing requirements for depreciation studies, including that such requirements should not be developed.

If the Commission does not agree that PGE should be compelled to provide the data in the format AWEC requests in this case, then now is the time to open AWEC’s requested investigation. If the Commission ultimately agrees that minimum filing requirements for depreciation studies should be adopted, they can be implemented before the next utility files a depreciation study and this dispute can be avoided in future depreciation cases.

---

<sup>16/</sup> PGE Response at 8.

<sup>17/</sup> ORS 756.515(1) (emphasis added).

### III. CONCLUSION

For the foregoing reasons, AWEC respectfully requests that the Commission compel PGE to provide the outputs from its depreciation study in a machine-readable format. Alternatively, AWEC requests that the Commission open an investigation to establish minimum filing requirements for depreciation studies so that disputes like the one in this case can be avoided in future depreciation dockets.

Dated this 26th day of May, 2021.

Respectfully submitted,

DAVISON VAN CLEVE, P.C.

/s/ Tyler C. Pepple

Tyler C. Pepple

1750 SW Harbor Way, Suite 450

Portland, Oregon 97201

(503) 241-7242 (phone)

(503) 241-8160 (facsimile)

tcp@dvclaw.com

Of Attorneys for the

Alliance of Western Energy Consumers

**BEFORE THE PUBLIC UTILITY COMMISSION**

**OF OREGON**

**UM 2152**

In the Matter of )  
 )  
PORTLAND GENERAL ELECTRIC ) AFFIDAVIT OF  
COMPANY, ) LANCE D. KAUFMAN  
 )  
Detailed Depreciation Study of Electric Utility )  
Properties. )  
\_\_\_\_\_ )

I, Lance D. Kaufman, being first duly sworn, on my oath state:

1. My statements below are true and accurate to the best of my knowledge.

2. My name is Lance D. Kaufman. I am a self-employed consultant representing the Alliance of the Western Energy Consumers (“AWEC”) to review Portland General Electric Company’s (“PGE”) 2019 Depreciation Study (“Depreciation Study”) in the above-captioned docket before the Public Utility Commission of Oregon.

3. PGE states in its Response to AWEC’s Motion to Compel that AWEC possesses the capability to convert the input data into the output data requested in AWEC DR No. 002.<sup>1/</sup> This is incorrect because PGE has not provided the specific steps that were used to convert the inputs into outputs and these steps cannot be deduced without additional information from PGE. For example, the input file “(7) PGE19-Service Life Data.xlsx” contains a field titled “TransactionCode” which contains values from zero to nine.<sup>2/</sup> PGE did not provide explicit instruction about how it treated each transaction code when generating the output data. The

<sup>1/</sup> Docket No. UM 2152, PGE’s Response to the Alliance of Western Energy Consumers’ Motion to Compel Discovery, at 3:13-14 (May 18, 2021).

<sup>2/</sup> PGE Response to AWEC DR 001\_Attach B\_CONF.

same file includes a field titled "AdjustedTY".<sup>3/</sup> PGE did not provide explicit instruction about what this field represents or how this field is used when generating the output data.

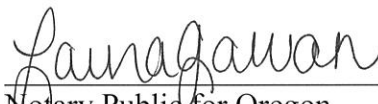
4. Even if PGE does provide the specific steps used to transform the input data into output data, the reproduced output cannot be compared to Gannett Fleming's output. If Gannett Fleming's output contains errors, they would remain unidentified.

DATED this 26 day of May, 2021.



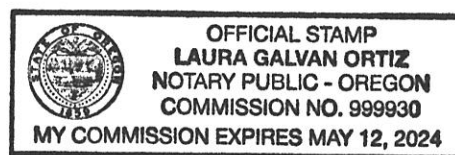
Lance D. Kaufman

SUBSCRIBED AND SWORN TO before me on this 26<sup>th</sup> day of May, 2021.



Notary Public for Oregon

My Commission Expires: 05/12/2024



<sup>3/</sup> Id.

UE-180778 / Pacific Power & Light Company  
November 5, 2018  
PC-BWP Data Request 4

#### **PC-BWP Data Request 4**

Please refer to the Direct Testimony of John Spanos, Exhibit JJS-1T, page 5, which states “For each property group, I used the retirement rate data to form a life table which, when plotted, shows an original survivor curve for that property group”.

- (a) Please provide the data used by Mr. Spanos to calculate retirement rates.
- (b) Please identify all differences between PacifiCorp’s accounting records and the data provided in part ‘a’ of this request, and explain the reason for each difference.
- (c) Please provide the retirement rates calculated by Mr. Spanos for each property group. Please provide such data as a computer-readable spreadsheet.

#### **Response to PC-BWP Data Request 4**

- (a) Please refer to Attachment PC-BWP 4-1 and Attachment PC-BWP 4-2.
- (b) Attachment PC-BWP 4-3 includes the historical retirement values as recorded by the company. Please refer to Attachment PC-BWP 4-4 for an explanation of the layout of the files showing the memo and type codes used to describe the data. The table below indicates which codes were included and which codes were excluded as retirements in the development of the retirement amounts. For transactions since the previous depreciation study, additional transactions that were not included as retirements are provided in Attachment PC-BWP 4-5.

<b>Memo</b>	<b>Include/Exclude</b>
A	Excluded
C	Included
E	Included
M	Included
P	Included
S	Excluded

- (c) Please refer to Attachment PC-BWP 4-6 and Attachment PC-BWP 4-7 which are provided in native MS Word format.

PREPARER: John J. Spanos

SPONSOR: John J. Spanos

Despite PacifiCorp's diligent efforts, certain information protected from disclosure by the attorney-client privilege or other applicable privileges or law may have been included in its responses to these data requests. PacifiCorp did not intend to waive any applicable privileges or rights by the inadvertent disclosure of protected information, and PacifiCorp reserves its right to request the return or destruction of any privileged or protected materials that may have been inadvertently disclosed. Please inform PacifiCorp immediately if you become aware of any inadvertently disclosed information.

### **AWEC Data Request 004**

Please refer to PAC/200, Spanos/5, which states “For each property group, I used the retirement rate data to form a life table which, when plotted, shows an original survivor curve for that property group.”

- a. Please provide the data used by Mr. Spanos to calculate retirement rates.
- b. Please identify all differences between PacifiCorp’s accounting records and the data provided in part a of this request, and explain the reason for each difference.
- c. Please provide the retirement rates calculated by Mr. Spanos for each property group. Please provide such data as a computer-readable spreadsheet.

### **Response to AWEC Data Request 004**

- a-c. Please refer to the response to PC-BWP Data Request 4 in Washington docket UE-180778 provided in response to AWEC Data Request 001.