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September 20, 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 errata to the Alliance of Western Energy Consumers' ("AWEC") Objections to Stipulation in the above-referenced docket.

AWEC identified a misstatement on page 2 of its Objections to Stipulation. AWEC is filing a clean and redline replacement version. No other changes were made either to AWEC's Objections to Stipulation or Dr. Lance D. Kaufman's Opening Testimony.

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

Sincerely,

/s/ Corinne O. Milinovich
Corinne O. Milinovich

Enclosure

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 2152

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

I. INTRODUCTION

Pursuant to OAR 860-001-0350(8) and the Administrative Law Judge’s August 16, 2021 Ruling, the Alliance of Western Energy Consumers (“AWEC”) files this Objection to the Stipulation filed on July 29, 2021 with the Oregon Public Utility Commission (“Commission”) by Portland General Electric Company (“PGE”), Commission Staff (“Staff”), and the Oregon Citizens’ Utility Board (“CUB”) (collectively, the “Stipulating Parties”) in the above-referenced docket. In support of the Stipulation, the Stipulating Parties filed Joint Testimony limited to depreciation rates for Advanced Metering Infrastructure (“AMI”), Wind Generation, Net Salvage Rates and Colstrip Probable Retirement Date.^{1/} The critical flaw in the Stipulation is that it is far too limited – it does not demonstrate that PGE’s depreciation rates *overall* are fair, just and reasonable, or “proper and adequate,” as required by ORS 757.140.

AWEC only opposes one of the adjustments to PGE’s filing contained in the

^{1/} Docket No. UM 2152 / Stipulating Parties/100 Peng – Gehrke – Spanos/i.

Stipulation – the proposal to accelerate the depreciable lives of PGE’s wind resources to 30 years. In addition, however, there is no testimony whatsoever on any aspect of PGE’s depreciation rates other than those specifically identified in the Stipulation. This is particularly problematic when many of the Company’s recommendations are based on little more than unspecified “judgment.” The record is insufficient to determine whether the proposed depreciation rates in the Stipulation are fair, just, and reasonable. Indeed, as detailed in the accompanying testimony of Dr. Lance Kaufman, AWEC has identified several other adjustments that must be made to ensure just and reasonable depreciation rates as a whole, not solely for limited accounts. The Stipulation should either be rejected or modified to include AWEC’s adjustments.

II. OBJECTIONS

A. Background on Proposed Depreciation Rates

On January 15, 2021, and pursuant to ORS 757.140 and Commission Order 17-365, PGE filed its detailed depreciation study (“Depreciation Study”), prepared by Gannett Fleming, with the Commission. The Depreciation Study provides depreciation rates, survival curves, and net salvage rates of all PGE’s primary accounts at all locations and “recommends revisions in depreciation lives, curves, and salvage rates for all plant accounts.”^{2/} PGE filed no testimony in support of the Depreciation Study. Indeed, the only testimony filed in this docket is the Joint Testimony of the Stipulating Parties that supports the Stipulation. The depreciation

^{2/} Docket No. UM 2152, PGE Initial Filing at 1 (Jan. 15, 2021).

rates established in this docket will be implemented in PGE’s general rate case filing, Docket No. UE 394.

B. Legal Standard for Review of Stipulation

When reviewing the terms of a proposed settlement, the Commission applies the same statutory criteria as it does when deciding a fully litigated case.^{3/} That is, in determining rates pursuant to ORS 757.210(1), “the utility shall bear the burden of showing that the rate or schedule of rates proposed to be established or increased or changed is fair, just and reasonable.”^{4/} “There are two aspects to the burden of proof: the burden of persuasion and the burden of production.”^{5/} “[I]f PGE makes a proposed change that is disputed by another party, PGE still has the burden to show, by a preponderance of evidence, that the change is just and reasonable. If it fails to meet that burden, either because the opposing party presented compelling evidence in opposition to the proposal, *or because PGE failed to present compelling information in the first place*, then PGE does not prevail.”^{6/} Further, as the applicant, PGE “never relinquishes its burden of proof,” even if it is a party to a proposed settlement.^{7/} In addition to a stipulation being just and reasonable, it must also be lawful.^{8/}

^{3/} In Re PacifiCorp, DBA Pac. Power, Transition Adjustment, Five-Year Cost of Serv. Opt-Out., Docket No. UE 267, Order No. 15-060, at 4 (Feb. 24, 2015); Docket No. UM 1969, Order No. 20-470, at 4 (Dec. 16, 2020) (“With the above review, we conclude that the revised depreciation rates attached to the stipulation will result in fair, just, and reasonable rates and further the public interest.”).

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“A stipulation is not binding on the Commission.”^{9/} The Commission has stated that it “do[es] not defer to, and [is] not bound by the terms of *any* stipulation.”^{10/} In reviewing a settlement, the Commission “may adopt or reject a stipulation in its entirety, or adopt it with modifications to its terms.”^{11/} The Commission’s order must rely exclusively on facts in the record to justify the Commission’s decision.^{12/} All aspects of the Commission’s eventual order must be supported by evidence in the record.^{13/}

C. The record is insufficient to support a determination that the stipulated depreciation rates are fair, just, and reasonable.

1. There is no PGE witness available for cross examination of the Depreciation Study because the Company failed to provide direct testimony

ORS 757.140(1) provides that “[e]very public utility shall carry a proper and adequate depreciation account. The Public Utility Commission shall ascertain and determine the proper and adequate rates of depreciation of the several classes of property of each public utility.” The record is insufficient to support a determination that the depreciation rates are fair, just, and reasonable. PGE failed to file direct testimony addressing the proposed depreciation rates. The only testimony in the record upon which the Commission must make its determination is the Joint Testimony in support of the Stipulation filed on July 29, 2021 by the Stipulating Parties. Notably, the Joint Testimony only addresses four accounts in detail: AMI, Wind Generation, Net Salvage Rates, and Colstrip Probable Retirement Date.^{14/}

^{9/} OAR 860-001-0350(9).

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According to the Stipulating Parties, “[t]he adjustments discussed in the Stipulation are reasonable and will yield fair and equitable rates if adopted by the Commission in its final order in this docket.”^{15/} Without any testimony on any of the other accounts in PGE’s depreciation study, the Commission cannot find that the adjustments presented in the Stipulation will alone yield fair and equitable rates if such adjustments are not supported by evidence.

The Stipulating Parties further state that Staff and CUB independently reviewed the Depreciation Study and made recommendations at the June 24 and June 28, 2021 settlement conferences.^{16/} Leaving aside the fact that Staff and CUB offer no specifics of their review, PGE has the burden of proof, and neither Staff nor CUB can carry that burden for the Company.

In failing to provide direct testimony in this case, PGE also failed to provide a witness to support the Depreciation Study. PGE has effectively eliminated the ability to cross-examine a Company witness on the Depreciation Study and proposed depreciation rates. The Commission has directly addressed the policy question of “whether testimony can be fairly considered without allowing discovery and cross-examination on that testimony.”^{17/} According to the Commission, “[i]t is well established that the testimony of a witness cannot be given much weight without permitting cross-examination....Allowing testimony without cross-examination makes it difficult to determine whether the testimony is credible.”^{18/}

^{15/} Id. at 1:17-19.

^{16/} Id. at 4:2-5.

^{17/} Docket No. UM 1087, Order No. 04-379, at 5 (July 8, 2004).

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The lack of direct testimony is particularly problematic because, as Dr. Kaufman shows, PGE relies heavily on “judgement” in developing its depreciation rates.^{19/} PGE failed to articulate specifics regarding the judgment applied or the basis for such judgment. The fact that a substantial portion of PGE’s depreciation rates are based on unsupported judgment rather than statistical analysis would be unknown to the Commission absent AWEC’s objections to the Stipulation. Moreover, as Dr. Kaufman demonstrates, several accounts in which Gannett Fleming employed its judgment do not reflect actual service life characteristics. The consequence of this has been the accumulation of an abnormally large excess reserve of \$685 million, and recommendations for several accounts that are not statistically supported. Dr. Kaufman’s testimony provides a detailed discussion of these issues.

2. Other utilities provide testimony in support of proposed deprecation rate changes

Unlike in this proceeding, other utilities file direct testimony along with the initial application for approval of depreciation rates,^{20/} or minimally, information and details related to the depreciation study performed and results.^{21/} For example, in Docket No. UM 1968, PacifiCorp filed an application seeking depreciation rate changes with accompanying direct testimony. PacifiCorp’s witnesses explained the depreciation rates for which PacifiCorp was

^{19/} AWEC/102 (PGE Response to AWEC Data Request 044); AWEC/100, Kaufman/5:3-7:5.

^{20/} See Docket No. UM 1968, PAC/100, Kobliha, PAC/200-203, Spanos, PAC/300-302, McDougal, PAC/400-402, Teply, PAC/500-501, Hemstreet (Sep. 13, 2018); Docket No. UM 2180, (Idaho Power/100-102) (June 4, 2021); Docket No. UM 1801, (Idaho Power/100-103, Spanos) (Nov. 2, 2016); Washington Utilities and Transportation Commission, Docket Nos. UE-170033 and UG-170034, Exh. JJS-1T (Jan. 13, 2017); Washington Utilities and Transportation Commission, Docket No. UE-180778, Exhibit No. NLK-1T (Sep. 13, 2018); Idaho Public Utilities Commission, Case No. IPC-E-03-07, Spanos Direct, Rocky Mountain Power (May 6, 2003); Idaho Public Utilities Commission, Case No. PAC-E-07-14, Roff Direct; Mansfield Direct; and Lay Direct, Rocky Mountain Power (Aug. 31, 2007).

^{21/} See In the Matter of Avista Corporation, dba Avista Utilities, Application to Revise Book Depreciation Rates and Request Deferred Accounting, Docket No. UM 1933 (Feb. 22, 2018).

seeking Commission approval, how the rates were developed, provided background on the depreciation study used to develop the rates, and provided testimony addressing significant issues related to the proposed depreciation rates.^{22/} As such, the Commission found PacifiCorp’s depreciation rates would result in “fair, just, and reasonable rates and further the public interest.”^{23/} Similarly, in Docket Nos. UE-170033 and UG-170034 before the Washington Utilities and Transportation Commission, Puget Sound Energy (“PSE”) filed direct testimony sponsoring the depreciation study put forth by PSE.^{24/} The Washington Utilities and Transportation Commission ultimately found that the Settlement Stipulation filed by parties that included contested depreciation issues to be “lawful, supported by the record, in the public interest, and reasonable.”^{25/} Here, PGE’s lack of direct testimony in support of the Depreciation Study does not support a finding that the Company’s proposed depreciation rates as a whole are fair, just and reasonable, and further the public interest.

D. AWEC’s Recommended Modifications to the Stipulation

To ensure that PGE’s depreciation rates overall are fair and reasonable, and proper and adequate, AWEC recommends the following modifications to the Stipulation. These modifications are fully described in Dr. Kaufman’s testimony:

1. PGE has accumulated excess depreciation reserves of \$685 million. This is an abnormally large amount of excess reserves, and the Stipulating Parties’ proposal

^{22/} See Docket No. UM 1968, PAC/100, Koblha, PAC/200-203, Spanos, PAC/300-302, McDougal, PAC/400-402, Teply, PAC/500-501, Hemstreet (Sep. 13, 2018).

^{23/} Docket No. UM 1968, Order No. 20-470, at 4 (Dec. 16, 2020).

^{24/} Washington Utilities and Transportation Commission, Docket Nos. UE-170033 and UG-170034, Exh. JJS-1T (Jan. 13, 2017).

^{25/} Docket Nos. UE-170033 and UG-170034, Order 08, ¶138 (Dec. 5, 2017)..

to amortize it over a 25-year period results in intergenerational inequity. This inequity is compounded by the acceleration of Colstrip’s depreciation date to 2025, which will require current customers to pay more for this resource. To remedy these inequities, AWEC proposes the following three actions:^{26/}

- a. Apply \$180 million of the excess reserve balance associated with production and transmission plant to the undepreciated investment in the Colstrip Generating Station. This avoids requiring current customers to pay higher rates associated with accelerating Colstrip’s depreciable life to 2025. It would also result in Colstrip being fully depreciated in approximately 2022. Under SB 1547, PGE may request to continue including the ongoing operating costs and benefits of Colstrip for five years beyond the date it is fully depreciated. AWEC’s proposal would result in Colstrip being definitively out of rates by approximately 2027,^{27/} which better ensures the economic benefits for customers that PGE has modeled in its Colstrip Enabling Study.^{28/} By contrast, the Stipulating Parties’ approach would allow PGE to continue including Colstrip’s costs and benefits in rates through 2030 (if it operates that long).

^{26/} Exh. AWEC/100 Kaufman/8:9-15.

^{27/} The specific date depends on when the Commission issues a final order in this docket and when PGE applies the excess reserves to Colstrip.

^{28/} The Colstrip Enabling Study is available here: <https://assets.ctfassets.net/416ywc1laqmd/2AK9jf4GCmd1tyaLA8EODE/fb40144334f40fab7cc2e001676f1977/2020-colstrip-enabling-study.pdf>. It concludes that “[w]hen the two Colstrip units leave PGE’s portfolio in different years (e.g., 2025/2027), we see cost and risk metrics fall between the cases where both units are removed from the portfolio in 2025 or 2027. Enabling Study, “Results” section (note that the Enabling Study lacks page numbers).

- b. Amortize the remaining excess reserves over a 10-year period for accounts with composite remaining lives greater than 10 years
 - c. Reevaluate the level of PGE's excess reserves in its next depreciation study to ensure that the level of amortization remains just and reasonable.
2. Adopt a 38-year life for PGE's wind resources.^{29/} This life better reflects actual industry retirement data than the 30-year life proposed in the Stipulation. Indeed, the Stipulation's recommendation is based on faulty data from Commission Staff on which the Commission should not rely. Additionally, if the Commission adopts a 30-year life for PGE's wind resources, this could serve as precedent to adopt the same life for other Oregon utilities' wind resources. A 30-year depreciable life for PacifiCorp's wind resources, for example, would result in a substantial rate impact.
3. Make the adjustments recommended by Dr. Kaufman to the Sullivan hydro facility's end of life and to the following accounts:^{30/}
- 311.00, 332.00, 336.00, 341.00, 341.01, 345.00, 345.01, 346, 352.00, 356.00, 373.07, 392.10, and other 392 accounts.
4. In future depreciation study filings, require PGE to file testimony explaining, at a minimum: (1) the major changes from the prior depreciation study; (2) the treatment of any significant new assets or new modeling changes; (3) any changes

^{29/} Exh. AWEC/100 Kaufman/33:2-3.

^{30/} Exh. AWEC/100 Kaufman/2:9-17.

due to legal or policy developments; and (4) how judgment is used to develop depreciation rates and why that judgment is reasonable.^{31/}

III. CONCLUSION

PGE has failed to carry its burden to demonstrate the reasonableness of the Depreciation Study. Moreover, the Stipulation is far too narrow and limited in its scope to ensure that the Company's depreciation rates overall are just and reasonable. Substantial changes to the Stipulation are necessary to ensure fair and reasonable depreciation rates, as described in Dr. Kaufman's testimony. Accordingly, AWEC respectfully requests that the Commission reject the Stipulation or modify it to include AWEC's recommended adjustments and modifications to the Stipulation.

Dated this 17th day of September, 2021.

Respectfully submitted,

DAVISON VAN CLEVE, P.C.

/s/ Tyler C. Pepple

Tyler C. Pepple

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Alliance of Western Energy Consumers

^{31/} Id. at 1:19-24.

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Unlike in this proceeding, other utilities file direct testimony along with the initial application for approval of depreciation rates,^{20/} or minimally, information and details related to the depreciation study performed and results.^{21/} For example, in Docket No. UM 1968, PacifiCorp filed an application seeking depreciation rate changes with accompanying direct testimony. PacifiCorp’s witnesses explained the depreciation rates for which PacifiCorp was

^{19/} AWEC/102 (PGE Response to AWEC Data Request 044); AWEC/100, Kaufman/5:3-7:5.

^{20/} See Docket No. UM 1968, PAC/100, Kobliha, PAC/200-203, Spanos, PAC/300-302, McDougal, PAC/400-402, Teply, PAC/500-501, Hemstreet (Sep. 13, 2018); Docket No. UM 2180, (Idaho Power/100-102) (June 4, 2021); Docket No. UM 1801, (Idaho Power/100-103, Spanos) (Nov. 2, 2016); Washington Utilities and Transportation Commission, Docket Nos. UE-170033 and UG-170034, Exh. JJS-1T (Jan. 13, 2017); Washington Utilities and Transportation Commission, Docket No. UE-180778, Exhibit No. NLK-1T (Sep. 13, 2018); Idaho Public Utilities Commission, Case No. IPC-E-03-07, Spanos Direct, Rocky Mountain Power (May 6, 2003); Idaho Public Utilities Commission, Case No. PAC-E-07-14, Roff Direct; Mansfield Direct; and Lay Direct, Rocky Mountain Power (Aug. 31, 2007).

^{21/} See In the Matter of Avista Corporation, dba Avista Utilities, Application to Revise Book Depreciation Rates and Request Deferred Accounting, Docket No. UM 1933 (Feb. 22, 2018).

seeking Commission approval, how the rates were developed, provided background on the depreciation study used to develop the rates, and provided testimony addressing significant issues related to the proposed depreciation rates.^{22/} As such, the Commission found PacifiCorp’s depreciation rates would result in “fair, just, and reasonable rates and further the public interest.”^{23/} Similarly, in Docket Nos. UE-170033 and UG-170034 before the Washington Utilities and Transportation Commission, Puget Sound Energy (“PSE”) filed direct testimony sponsoring the depreciation study put forth by PSE.^{24/} The Washington Utilities and Transportation Commission ultimately found that the Settlement Stipulation filed by parties that included contested depreciation issues to be “lawful, supported by the record, in the public interest, and reasonable.”^{25/} Here, PGE’s lack of direct testimony in support of the Depreciation Study does not support a finding that the Company’s proposed depreciation rates as a whole are fair, just and reasonable, and further the public interest.

D. AWEC’s Recommended Modifications to the Stipulation

To ensure that PGE’s depreciation rates overall are fair and reasonable, and proper and adequate, AWEC recommends the following modifications to the Stipulation. These modifications are fully described in Dr. Kaufman’s testimony:

1. PGE has accumulated excess depreciation reserves of \$685 million. This is an abnormally large amount of excess reserves, and the Stipulating Parties’ proposal

^{22/} See Docket No. UM 1968, PAC/100, Koblha, PAC/200-203, Spanos, PAC/300-302, McDougal, PAC/400-402, Teply, PAC/500-501, Hemstreet (Sep. 13, 2018).

^{23/} Docket No. UM 1968, Order No. 20-470, at 4 (Dec. 16, 2020).

^{24/} Washington Utilities and Transportation Commission, Docket Nos. UE-170033 and UG-170034, Exh. JJS-1T (Jan. 13, 2017).

^{25/} Docket Nos. UE-170033 and UG-170034, Order 08, ¶138 (Dec. 5, 2017)..

to amortize it over a 25-year period results in intergenerational inequity. This inequity is compounded by the acceleration of Colstrip’s depreciation date to 2025, which will require current customers to pay more for this resource. To remedy these inequities, AWEC proposes the following three actions:^{26/}

- a. Apply \$180 million of the excess reserve balance associated with production and transmission plant to the undepreciated investment in the Colstrip Generating Station. This avoids requiring current customers to pay higher rates associated with accelerating Colstrip’s depreciable life to 2025. It would also result in Colstrip being fully depreciated in approximately 2022. Under SB 1547, PGE may request to continue including the ongoing operating costs and benefits of Colstrip for five years beyond the date it is fully depreciated. AWEC’s proposal would result in Colstrip being definitively out of rates by approximately 2027,^{27/} which better ensures the economic benefits for customers that PGE has modeled in its Colstrip Enabling Study.^{28/} By contrast, the Stipulating Parties’ approach would allow PGE to continue including Colstrip’s costs and benefits in rates through 2030 (if it operates that long).

^{26/} Exh. AWEC/100 Kaufman/8:9-15.

^{27/} The specific date depends on when the Commission issues a final order in this docket and when PGE applies the excess reserves to Colstrip.

^{28/} The Colstrip Enabling Study is available here: <https://assets.ctfassets.net/416ywc11aqmd/2AK9jf4GCmd1tyaLA8EODE/fb40144334f40fab7cc2e001676f1977/2020-colstrip-enabling-study.pdf>. It concludes that “[w]hen the two Colstrip units leave PGE’s portfolio in different years (e.g., 2025/2027), we see cost and risk metrics fall between the cases where both units are removed from the portfolio in 2025 or 2027. Enabling Study, “Results” section (note that the Enabling Study lacks page numbers).

- b. Amortize the remaining excess reserves over a 10-year period for accounts with composite remaining lives greater than 10 years
 - c. Reevaluate the level of PGE's excess reserves in its next depreciation study to ensure that the level of amortization remains just and reasonable.
2. Adopt a 38-year life for PGE's wind resources.^{29/} This life better reflects actual industry retirement data than the 30-year life proposed in the Stipulation. Indeed, the Stipulation's recommendation is based on faulty data from Commission Staff on which the Commission should not rely. Additionally, if the Commission adopts a 30-year life for PGE's wind resources, this could serve as precedent to adopt the same life for other Oregon utilities' wind resources. A 30-year depreciable life for PacifiCorp's wind resources, for example, would result in a substantial rate impact.
3. Make the adjustments recommended by Dr. Kaufman to the Sullivan hydro facility's end of life and to the following accounts:^{30/}
- 311.00, 332.00, 336.00, 341.00, 341.01, 345.00, 345.01, 346, 352.00, 356.00, 373.07, 392.10, and other 392 accounts.
4. In future depreciation study filings, require PGE to file testimony explaining, at a minimum: (1) the major changes from the prior depreciation study; (2) the treatment of any significant new assets or new modeling changes; (3) any changes

^{29/} Exh. AWEC/100 Kaufman/33:2-3.

^{30/} Exh. AWEC/100 Kaufman/2:9-17.

due to legal or policy developments; and (4) how judgment is used to develop depreciation rates and why that judgment is reasonable.^{31/}

III. CONCLUSION

PGE has failed to carry its burden to demonstrate the reasonableness of the Depreciation Study. Moreover, the Stipulation is far too narrow and limited in its scope to ensure that the Company's depreciation rates overall are just and reasonable. Substantial changes to the Stipulation are necessary to ensure fair and reasonable depreciation rates, as described in Dr. Kaufman's testimony. Accordingly, AWEC respectfully requests that the Commission reject the Stipulation or modify it to include AWEC's recommended adjustments and modifications to the Stipulation.

Dated this 17th day of September, 2021.

Respectfully submitted,

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^{31/} Id. at 1:19-24.