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February 7, 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 CO.
Request for a General Rate Revision.
Docket No. UE 394

Attention Filing Center:

Please find enclosed the Prehearing 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.)
_____)

PREHEARING BRIEF

ON BEHALF OF THE

ALLIANCE OF WESTERN ENERGY CONSUMERS

February 7, 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 Prehearing Brief with the Oregon Public Utility Commission ("Commission").

Parties have settled all cost of capital issues, the majority of revenue requirement issues, and rate spread issues through a series of four partial stipulations. The fourth partial stipulation will result in rates that are fair, just and reasonable and is discussed in detail below. Nonetheless, several issues remain fully disputed, five of which AWEC addresses in this Prehearing 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 (the "Deferrals"). AWEC recommends the Commission initiate a consolidated docket to review and establish final amortization schedules for the three Deferrals. Given the evidence on the record, AWEC further recommends \$15 million related to the Wildfire and Ice Storm Deferrals be amortized in this case. Alternatively, if the Commission declines to apply interest to these two deferrals at the Modified Blended Treasury ("MBT") rate, and given outstanding questions regarding costs booked to the Wildfire Deferral, AWEC recommends the Commission refrain from amortizing the Wildfire and Ice Storm Deferrals in this case and address amortization in a consolidated proceeding.

Second is a Schedule 90 subtransmission rate. AWEC recommends the Commission adopt a Schedule 90 subtransmission rate because doing so 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. PGE has failed to present

compelling evidence that a subtransmission rate for Schedule 90 should not be approved. Third is PGE’s nonbypassability proposal for Schedule 150 which violates the cost-causation principle and is not supported by evidence on the record. AWEC recommends the Commission reject PGE’s nonbypassability proposal for Schedule 150 and revisit it in UM 2024 and AR 651. Fourth is the issue of PGE’s Faraday Repowering project proposal. Given outstanding questions regarding timing, costs, and prudence of the project, the Commission should make no determination in this case on the process for how the project should ultimately be included in rates. The final issue addressed below is PGE’s proposed balancing account for Level III storm costs. Because evidence on the record shows that PGE has failed to carry its burden of proof regarding its proposed change to cost recovery for these costs, the Commission should retain the existing Level III storm mechanism. These five issues, as well as the fourth partial stipulation, are discussed in detail below.

II. STANDARD OF REVIEW

PGE bears “the burden of showing that the rate or schedule of rates proposed to be established or increased or changed is fair, just and reasonable.”^{1/} The Commission may not authorize a rate or schedule of rates that is not fair, just and reasonable. “There are two aspects to burden of proof: the burden of persuasion and the burden of production.”^{2/} “[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,

^{1/} ORS § 757.210(1)(a).

^{2/} In Re Portland General Electric Co., Application to Amortize the Boardman Deferral, Docket No. UE 196, Order No. 09-046, at 7 (Feb. 5, 2009).

or because PGE failed to present compelling information in the first place, then PGE does not prevail.”^{3/} Here, PGE has failed to meet its burden of proof on several issues, including the Schedule 90 subtransmission rate, nonbypassable charges of Schedule 150, and the Level III Storm deferral mechanism, as discussed in detail below.

III. ARGUMENT

A. The fourth partial stipulation is in the public interest and will result in rates that are fair, just and reasonable.

Stipulating Parties reached a compromise settlement in the fourth partial stipulation and resolved many issues, including rate spread and costs associated with the Trojan Nuclear Decommissioning Trust. No party opposes the fourth partial stipulation. Regarding the Trojan Nuclear Decommissioning Trust, the Stipulation resolves this issue by adopting AWEC’s recommendation in its Rebuttal Testimony, which AWEC supports as just and reasonable.

Regarding rate spread, the Stipulation results in certain classes receiving rate decreases while others receive rate increases. In Order 19-129 in UE 335, PGE’s last general rate case, the Commission directed the Stipulating Parties “to address forecasted rate impacts and provide justification for differing treatment in testimony supporting the stipulation.”^{4/} In this case, there are several compelling justifications for the rate spread treatment in the Stipulation. First, the rate spread is roughly consistent with PGE’s cost of service study, with the only material changes being the application of the Customer Impact Offset (“CIO”). The CIO mitigates rate increases to customer classes, and in this case, the classes that are receiving rate decreases are also contributing toward the CIO, thus reducing their rate decrease and mitigating

^{3/} In Re Portland General Electric Co., Proposal to Restructure and Reprice its Services in Accordance with the Provisions of SB 1149, Docket No. UE 115, Order No. 01-777, at 6 (Aug. 31, 2001).

^{4/} Docket UE 335, Order No. 19-129 at 11 (Apr. 12, 2019).

other schedules' increases. Schedule 90, for instance, is contributing \$1.2 million to the CIO. Second, as AWEC's testimony demonstrated, it is likely in future cost of service studies that large customer schedules will be shown to already be paying above their cost of service by virtue of the types of resources PGE is acquiring and will acquire in the future.

Third, since PGE's last general rate case, no customer class will experience a rate decrease if the Stipulation is approved. As Dr. Kaufman explained in his Rebuttal Testimony, "[r]elative to UE 335 rates, 2022 overall rates are 10.7 percent higher, an annual average increase of 3.6 percent."^{5/} It is appropriate to judge whether a customer class is receiving an overall rate increase or decrease based on the results from the late rate case because "more than three quarters of PGE's overall rate increase since its last rate case has occurred outside of a general rate case through supplemental schedules."^{6/} Between-rate-case changes substantially affect PGE's schedules. For example, [n]ot counting rates proposed in this case, overall rates have increased 8 percent since 2019....Schedules 89 and 90 have had the largest increases, at 9.3 and 9.7 percent respectively. Residential rate increases were below average, at 6.6 percent."^{7/} Therefore, without the rate spread agreed to by parties in the Stipulation, "Schedule 90 would experience an overall increase of 7.2 percent."^{8/}

As the Commission is well aware, there is no process in place for parties to address rate spread between rate cases. If Schedule 89 and 90 customers had the ability to do so, "these schedules would have had a lower starting rate entering the 2022 rate case, reducing, and

^{5/} AWEC/400 Kaufman/19:11-12 citing AWEC/401 (PGE Resp. to AWEC DR 308, Attachment A).

^{6/} AWEC/400 Kaufman/19:13-15.

^{7/} AWEC/400 Kaufman/20:10-13.

^{8/} AWEC/400 Kaufman/20:19-21.

possibly eliminating, the need for a cost-based rate decrease.”^{9/} As Dr. Kaufman explained, “[b]ecause marginal cost results change gradually, each filing would have afforded Schedules 89 and 90 a chance to have a cost-based rate reduction relative to the rate that went into effect. This means that these schedules would have had lower bills in 2020 and 2021.”^{10/} However, such a process is not in place. Although from the Rate Spread and CIO terms included in the fourth partial stipulation it appears that some customer classes are receiving a rate decrease while others are receiving rate increase, such is not the case when PGE’s last rate case is considered. As noted above, adoption of the fourth partial stipulation will result in an overall increase for Schedule 90 from the last rate case. Given that no party to the Stipulation opposes the Rate Spread and CIO settlement, it stands to reason that all parties acknowledge the terms further the public interest and will result in fair, just and reasonable rates.

In addition to Rate Spread and the CIO, the fourth partial stipulation resolves the following issues: Fee Free Bank Card; the Trojan Nuclear Decommissioning Trust (“NDT”); Schedule 7 Residential Basic Charge; Schedule 7 Residential Line Extension Allowance; Temporary Service; Generation Demand Charges for Schedule 83 and 85; Habitat Restoration, A-26; Nonbypassability related to Schedules 137 and 135; and Schedule 138 Energy Storage Cost Recovery. AWEC, as a signatory to every part of the fourth partial stipulation, agrees that it is in the public interest, and will result in rates that are fair, just, and reasonable, consistent with ORS 756.040.

^{9/} AWEC/400 Kaufman/21:6-8.

^{10/} AWEC/400 Kaufman/21:4-6.

B. In furtherance of the public interest and judicial efficiency, the Commission should initiate a new consolidated proceeding to evaluate the UM 2115 Wildfire Deferral, the UM 2156 Ice Storm Deferral, and the UM 2119 Boardman Deferral.

The UM 2115 Wildfire Deferral, the UM 2156 Ice Storm Deferral, and the UM 2119 Boardman Deferral present an opportunity for the Commission to support judicial efficiency and further the public interest by initiating a new consolidated proceeding in order to adequately evaluate the Deferrals and determine the proper amortization schedule. Initially, AWEC recommended that the three Deferrals all be amortized in this proceeding in an offsetting manner over the same three-year period.^{11/} AWEC and the Citizens' Utility Board ("CUB") submitted Joint Opening Testimony, in which they recommended that the funds associated with the Boardman coal fired generation facility ("Boardman") be "amortized to the benefit of ratepayers over a three-year period through Schedule 145 and earn interest at the Modified Blended Treasury Rate ("MBT")."^{12/} In response testimony, PGE identified a correction to the tax expenses included in the Boardman revenue requirement calculation performed by AWEC and CUB that resulted in a balance of \$108,109,463 as of May 1, 2022.^{13/} PGE also updated calculations of the balances accrued with respect to the Wildfire Deferral and the Ice Storm Deferral that showed a material increase, as PGE continues to accrue costs toward the Wildfire Deferral.^{14/} Given these changes to the respective balances of the three deferrals, coupled with concerns AWEC has over the appropriateness of PGE continuing to book costs toward the Wildfire Deferral, AWEC modified its recommendation in rebuttal testimony.^{15/} Specifically, AWEC recommended that the

^{11/} AWEC/100 Mullins/49:20-22.

^{12/} AWEC-CUB/100 Mullins-Gehrke/2:3-5.

^{13/} PGE/2300, Tooman-Batzler/15:11-13; AWEC/300 Mullins/3:6-7.

^{14/} PGE Resp. to AWEC DR 309 and 313; AWEC/300 Mullins/4:3-9.

^{15/} AWEC/300 Mullins/4:11-20.

Commission approve \$15,000,000 in annual amortization related to the Wildfire and Ice Storm Deferrals in this proceeding, subject to refund.^{16/} AWEC additionally recommended that the Commission initiate a consolidated docket to review and establish final amortization schedules for the three outstanding Deferrals.^{17/} Amortization of \$15 million from the Wildfire and Ice Storm deferrals would result in roughly equal balances for these two deferrals as compared with the Boardman deferral.

In Rebuttal Testimony, CUB continued to recommend that the Commission amortize the Boardman deferral over a three-year period for return to customers, in accordance with CUB and AWEC’s Joint Opening Testimony. According to CUB, “[u]nder established Commission precedent, the Commission has broad discretion on the parameters of the use of an earnings test...[and] failure to pass the amounts in the Boardman deferral to customers may be illegal under Oregon’s ORS 757.355 ‘used and useful’ statute.”^{18/} Additionally, CUB recommended that the Commission take no action in this case regarding the Wildfire and Ice Storm Deferrals and asked “PGE to support state legislation that would enable it to securitize these emergency costs.”^{19/} According to CUB, such legislation “would enable PGE to recover these costs over an extended period, at the interest rate of a corporate bond...[and]...PGE is considering proposing legislation that would enable securitization of these costs, which would be beneficial [sic] to residential customers.”^{20/} CUB therefore requested that “the Commission to wait on amortizing the costs associated with the Ice Storm and Wildfire deferrals to potentially enable the costs to be

^{16/} AWEC/300 Mullins/4:11-14.

^{17/} AWEC/300 Mullins/6:3-5.

^{18/} CUB/400 Jenks-Gehrke/5:17-6:2.

^{19/} CUB/500 Gehrke/3:20-21.

^{20/} CUB/500 Gehrke/3:23-4:3.

spread over an extended period.”^{21/}

In Rebuttal Testimony, Staff supported “AWEC’s request for an order directing PGE to amortize the Wildfire, Winter Storm and Boardman Deferrals over a three-year period in this rate case, subject to the earnings and prudence review required by ORS 757.259(5).”^{22/} Staff explained that “[o]nce the amounts are approved for amortization, ratepayers will benefit because the applicable interest rate for the amounts approved for amortization would decrease from the authorized ROR to the...MBT...rate. Additionally, including these event-related costs into rates in a timely manner will better match costs to benefits, thereby increasing inter-generational equity.”^{23/} Staff also recommended “that the Commission approve AWEC’s and CUB’s request to defer Boardman costs currently in rates as well as the request for re-authorization.”^{24/} Staff further recommended that “the Commission approve PGE’s request to re-authorize the Wildfire Deferral in this docket unless otherwise brought forward to the Commission at a public meeting prior to the close of the record in this docket.”^{25/} Staff made no recommendation regarding the Ice Storm deferral because the application was addressed at a Commission Public Meeting.

Given the variety of positions the parties have taken on the three Deferrals, the Commission has broad discretion over the manner in which they are addressed. Based on the record of this proceeding, however, AWEC believes two alternatives would best serve the public interest. The first would be to amortize \$15 million from the Ice Storm and Wildfire Deferrals in this case and open a new proceeding to consider all three Deferrals together. AWEC only supports

^{21/} CUB/500 Gehrke/6:10-13.

^{22/} Staff/2600 Moore – Dlouhy – Storm/3:4-7.

^{23/} Staff/2600 Moore – Dlouhy – Storm/3:7-12

^{24/} Staff/2600 Moore – Dlouhy – Storm/11:13-15.

^{25/} Staff/2600 Moore – Dlouhy – Storm/11:15-18.

this option, however, if the Commission determines that the full Ice Storm and Wildfire Deferral balances should begin earning interest at the Modified Blended Treasury rate once amortization of these deferrals begins. If the Commission does not agree that the full balances of these deferrals should earn the MBT rate, however, then AWEC recommends that the Commission amortize none of the balances of any of the Deferrals and open a separate proceeding to consider them all together.

At this time, AWEC no longer supports amortizing the full balances of all three Deferrals together in this proceeding. This is primarily due to the uncertainty associated with the appropriateness and prudence of costs booked to the Wildfire Deferral. As noted in AWEC's Rebuttal Testimony, the Wildfire Deferral balance has increased by 84% since September due to ongoing vegetation management costs.^{26/} Mr. Mullins expressed concern "that PGE is treating the UM 2115 2020 Wildfire Deferral as a wildfire mitigation tracking mechanism, rather than as a discrete deferral related to the 2020 Wildfire event."^{27/} Mr. Mullins explained that "[w]hile the 2020 wildfire event occurred 18 months ago, PGE continues to accrue a large amount of vegetation management expenses, which may not be appropriately tied to the 2020 wildfire event. These costs appear to be related to PGE's ongoing wildfire mitigation activities, and not necessarily the 2020 wildfire event."^{28/} PGE responded to Mr. Mullins' concerns, providing specifics regarding how the ongoing work is related to wildfire emergency rather than wildfire mitigation.^{29/} This new information provided by PGE supports AWEC's recommendation to open a separate consolidated proceeding. Such a proceeding will allow for additional time for parties to review the costs being incurred and booked toward the wildfire deferral.

^{26/} AWEC/300 Mullin/4:3-9.

^{27/} AWEC/300 Mullin/8:19-21.

^{28/} AWEC/300 Mullin/8:22-9:3.

^{29/} See UE 394 / PGE / 2900 Tooman – Ferchland / 28:5-11.

AWEC also does not agree with CUB's proposal to amortize the Boardman Deferral in this docket but take no action on the Ice Storm and Wildfire Deferrals. CUB's recommendation was based principally on an assumption that legislation authorizing PGE to securitize the costs of the Ice Storm and Wildfire Deferrals would pass in this year's legislative session. AWEC sees merit in securitization for these types of costs, but that legislation has not been introduced in this short session and, therefore, it is extremely unlikely that it will pass this year. Even assuming this legislation passes in 2023, which is not certain, parties would need to wait not only for the legislation to pass, but also for the conclusion of a proceeding to determine that the Ice Storm and Wildfire costs should be securitized. This means customers would not see the lower interest rate associated with securitization until at least the beginning of 2024. In the meantime, these deferrals will continue to accrue interest at PGE's cost of capital, which is not just and reasonable.

PGE erroneously asserts that AWEC's claims regarding the lag from capital projects are "incorrect and irritational."^{30/} However, as explained by Mr. Mullins, regulatory lag is irrelevant to the Boardman Deferral; only a minor portion of the Deferral represents capital. "Further, the other capital projects that PGE alleges is being subject to regulatory lag is not being deferred. Going back in time to consider those capital additions outside of a rate case would therefore constitute retroactive ratemaking."^{31/} Additionally, it must be recognized that many factors influence a utility's overall revenues, including sales revenue growth, which has increased by approximately 8% since the Company's 2019 GRC and went unaddressed by PGE in its initial

^{30/} UE 394 / PGE / 2900 Tooman – Ferchland / 16:8-9.

^{31/} AWEC/300 Mullins/7:3-5.

analysis of the Boardman Deferral. PGE argues that AWEC's recommendation that the Commission approve \$15 million in annual amortization related to the Wildfire and Ice Storm Deferral in this case would contradict Commission Order No. 06-507.^{32/} If the Commission agrees with PGE's assertion, the Commission should simply not amortize anything in this case.

As such, AWEC continues to recommend that the Commission initiate a consolidated docket to review and establish final amortization schedules for the three outstanding Deferrals and amortize \$15 million related to the Wildfire and Ice Storm Deferrals in this proceeding. Evidence on the record shows that the Wildfire and Ice Storm Deferral balances may now exceed the Boardman Deferral.^{33/} Combined with the fact that the balance associated with the Boardman Deferral is \$108,109,463 as of May 1, 2022, it is therefore reasonable that the Commission approve the approximate \$15 million in annual amortization related to the Wildfire and Ice Storm Deferrals, subject to refund. Such amortization reflects the updated balances accrued with the two deferrals. Alternatively, given outstanding questions regarding the Wildfire Deferral, discussed in more detail below, 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 will further the public interest and support judicial efficiency.

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

PGE has proposed to reduce the eligibility threshold for Schedule 90 from 100 aMW to 30 aMW. AWEC supports this proposal, and no party has opposed it. PGE has not,

^{32/} See UE 394 / PGE / 2900 Tooman – Ferchland / 24:20-21.

^{33/} See AWEC/300 Mullins 3:8-12; 4:1-9.

however, proposed to include a subtransmission rate for Schedule 90, even though such a rate currently exists for large customers under Schedule 89. AWEC recommends that the Commission require PGE to include a subtransmission rate for Schedule 90 with its new eligibility threshold.

Adoption of a Schedule 90 subtransmission rate furthers the public interest for numerous reasons. First, there is currently customer interest in a subtransmission rate based on the lower eligibility threshold for Schedule 90.^{34/} Additionally, PGE's arguments below notwithstanding, offering a subtransmission rate will have no cost impact on any other customer class. Instead, a subtransmission rate has the potential to reduce costs for all customers by further encouraging development of large customer sites in PGE's service territory. A subtransmission rate will provide customers with the option of taking service at a higher voltage and allows customers more flexibility in how they design and utilize their electric service.

A subtransmission rate for Schedule 90 is also rational. As PGE testifies, the "rate design [for Schedule 90] is similar to Schedule 89."^{35/} As Schedule 90 becomes open to more customers, providing similar delivery options to Schedule 89 furthers the linkage between these two tariffs. Indeed, a 30 aMW customer has the right to request subtransmission service from PGE under Schedule 89 today. There is no rational basis for why that same customer should not be allowed to request the same service from PGE three months from now once that customer becomes eligible for Schedule 90.

In Opening Testimony, Dr. Kaufman calculated a Schedule 90 subtransmission rate using an identical methodology to PGE's method of calculating the Schedule 89 subtransmission

^{34/} AWEC/400, Kaufman/22:18-20.

^{35/} PGE/1200, Macfarlane-Tang/14:18-19.

rate.^{36/} While PGE has opposed a subtransmission rate, it has not raised any concerns with the method Dr. Kaufman used to calculate this rate.

PGE has failed to meet its burden of showing that a Schedule 90 subtransmission rate, as proposed by Dr. Kaufman,^{37/} is not fair, just and reasonable. Specifically, PGE has failed to present rational and compelling evidence for why Dr. Kaufman’s proposal should not be adopted by the Commission. Rather, PGE continues to oppose such a subtransmission rate because the Company has not added a new subtransmission customer in sixteen years. This fact is immaterial to the Commission’s determination of whether to adopt a Schedule 90 subtransmission rate.

Beyond PGE’s unconvincing argument that a Schedule 90 subtransmission rate is not appropriate because no new subtransmission customer has been added for sixteen years, PGE states that that “offering a subtransmission rate option to Schedule 90 could introduce safety and reliability issues on the bulk electric system.”^{38/} PGE asserts that because “[c]ustomers who are on a subtransmission rate build and own the substation to serve their load...[and] [i]t is the customer’s responsibility to maintain a safe and reliable asset”, any safety issue at the customer-owned substation “may impose a strain on the bulk electric system as PGE relies on it to service over 900,000 customers in Oregon.”^{39/} PGE’s evidence in support of this statement is unpersuasive. PGE offers one example of a customer-owned substation that included a fuse that was too close to a transformer, which ultimately blew and caused a fuel leak.^{40/} According to PGE, “[d]ue to this interruption, the customer lost all their production while the substation was offline

^{36/} AWEC/200, Kaufman/51:12-16.

^{37/} See AWEC/200 Kaufman/50:11-51:16; AWEC/400 Kaufman/22:11-23:6.

^{38/} UE 394 / PGE / 3000 Macfarlane – Tang / 21:17-18.

^{39/} UE 394 / PGE / 3000 Macfarlane – Tang / 21:18-22:2.

^{40/} UE 394 / PGE / 3000 Macfarlane – Tang / 22:10-11.

which had a significant economic impact on the customer.”^{41/} PGE offers no evidence of how this customer-owned substation imposed strains or introduced safety and reliability issues to the bulk electric system, and offers no other example of broader impacts to the grid from a customer-owned substation. Indeed, if such impacts were truly of concern, it is unclear why PGE would have ever offered this service option in the first place, and why numerous other utilities offer a similar service option.^{42/}

PGE further contradicts its argument, noting that any customer substation must be built in accordance with the same safety and reliability standards as PGE-owned substations.^{43/} In fact, PGE offers a solution to mitigate its concerns, suggesting that if the Commission adopts a Schedule 90 subtransmission rate, “the Commission ensure standards are in place to ensure customer owned substations are built and maintained to the same standards applicable to PGE.”^{44/} AWEC does not oppose PGE’s recommendation to maintain consistent safety standards for customer-owned substations.

PGE further opposes a Schedule 90 subtransmission rate because it may create upward price pressure on other customers.^{45/} PGE first argues that subtransmission customers pay lower distribution charges. The Company does not argue that this is inappropriate (and cannot make this argument given that subtransmission customers bypass the distribution system). Rather, its argument seems to be that the Commission should force these customers to make less economic decisions to ensure that these customers make a greater contribution to PGE’s fixed costs than they

^{41/} UE 394 / PGE / 3000 Macfarlane – Tang / 22:13-14 (emphasis added).

^{42/} See AWEC/400 Kaufman/23:1, fn. 47.

^{43/} UE 394 / PGE / 3000 Macfarlane – Tang / 22:21-22.

^{44/} UE 394 / PGE / 3000 Macfarlane – Tang / 22:17-18.

^{45/} UE 394 / PGE / 3000 Macfarlane – Tang / 23:3-5.

would under a subtransmission rate. But these customers will still make substantial contributions to the Company's fixed costs, both through generation charges and by contributing to PGE's administrative and general costs. This will benefit all customers, as evidenced by Staff's support for a subtransmission rate and CUB's non-opposition.

PGE also opines that "if a Schedule 90 subtransmission customer were to go on Direct Access, PGE would no longer recover enough revenue via the distribution charges from the remaining customers."^{46/} While it is unclear from this statement how PGE would under-recover distribution charges if a subtransmission customer went to direct access, if there is any merit to this position, the Commission should build that cost into a transition charge. Given the cap on PGE's long-term direct access program, there is essentially no risk that a Schedule 90 subtransmission customer will transition to direct access until the direct access investigation in UM 2024 is concluded, so this issue can be thoroughly investigated in that docket.

D. PGE's nonbypassability proposal for Schedule 150 violates the cost-causation principle and is not supported by evidence on the record.

Similar to the Schedule 90 subtransmission rate, PGE has failed to meet its burden of proof and persuasion regarding the Company's nonbypassability proposal for Schedule 150, PGE's new transportation electrification schedule. Contrary to the cost-causation principle, "which seeks to identify and recoup costs from customers causing said costs to be incurred,"^{47/} PGE proposes to allocate the costs associated with Schedule 150 to direct access customers. PGE's sole argument in favor of its cost allocation proposal is that it "seeks to ensure that large nonresidential customers that choose to purchase energy from an [electricity service supplier

^{46/} UE 394 / PGE / 3000 Macfarlane – Tang / 23:9-11.

^{47/} Docket No. UM 2124, Order No. 21-483, Appendix A at 13 (Dec. 23, 2021).

(“ESS”)] pay their fair share of system costs, including costs related to public policy directives...Transportation Electrification, in support of statewide decarbonization goals and long-term load growth, should also be recovered through all customers.”^{48/}

According to PGE, nonbypassability “is the principle applied at both the Commission and the Legislature that costs of policies, for which there is a societal benefit, are borne by all retail electricity consumers regardless of whether they are served by an investor-owned utility (IOU) or an...ESS.”^{49/} However, PGE provides no citation for this statement and simply states that “[t]he mandated costs associated with effectuating public policies should not be bypassed by choosing an alternative energy supplier.”^{50/} Rather than citing statute, regulation, or Commission precedent in support of this statement, PGE asserts that in a UM 2024 discussion “Staff defined ‘nonbypassable charges as costs that the legislature directs to be recovered by all customers as well as costs determined by the Commission to be associated with implementing public policy goals related to reliability, equity, decarbonization, resiliency, or other public interests.’”^{51/} However, PGE has cherry-picked this sentence and does not provide Staff’s full statement from the Straw Proposal in Docket AR 651 (not Docket No. UM 2024), which reads “Staff proposes to define non-bypassable charges as costs that the legislature directs to be recovered by all customers as well as costs determined by the Commission to be associated with implementing public policy goals related to reliability, equity, decarbonization, resiliency, or other public interests.”^{52/} In fact, in a re-filed proposal and notice, Staff clarified that “the proposal does

^{48/} UE 394 / PGE / 3000 Macfarlane – Tang / 13:8-10;15-16.

^{49/} UE 394 / PGE / 3000 Macfarlane – Tang / 14:2-5.

^{50/} UE 394 / PGE / 3000 Macfarlane – Tang / 14:5-6.

^{51/} UE 394 / PGE / 3000 Macfarlane – Tang / 14:11-14

^{52/} Docket No. AR 651, Staff Straw Proposal (Jan. 12, 2022) (emphasis added).

not contain actual draft rule language and merely presents policy positions for topics within the scope of AR 651.”^{53/} PGE’s characterization that Staff’s proposed definition is anything more than a starting point for further discussions is blatantly incorrect and cannot be relied upon as compelling evidence to meet the Company’s burden of proof for its proposal to allocate non-bypassable charges of Schedule 150 to direct access customers. AWEC expects that Staff itself would not agree that its proposal represents its final position on this issue, let alone what the Commission’s final decision will be in that docket.

There is, in fact, specific legislation related to transportation electrification that is the impetus behind the costs PGE incurs under Schedule 150, which PGE conveniently fails to cite. ORS 757.357(5) provides that:

[A]n 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.

^{53/} Docket No. AR 651, Staff’s Workshop Announcement (Jan. 13, 2022); Docket No. AR 651, Staff’s Re-filed Straw Proposal (Jan. 13, 2022).

While AWEC does not dispute that costs incurred by a utility to reduce greenhouse gas emissions from the transportation sector would constitute a public policy cost fairly borne by all customers, the statute also identifies numerous other potential benefits from transportation electrification that inure directly to customers. 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.

Although, as PGE notes, “Docket No. UM 2024 is under investigation,” PGE nonetheless “suggests the Commission accept PGE’s proposed nonbypassability in this case and revisit this issue after Docket No. UM 2024 concludes.”^{54/} PGE states that it “will evaluate every proposed program cost allocation and make sure the cost allocation method is consistent with what will be concluded from Docket No. UM 2024 and any future related proceedings.”^{55/} PGE is requesting the Commission approve its proposed cost allocation method in this case without the Company providing any evidentiary basis for its proposal. PGE relies on nothing more than the blanket and conclusory statement that transportation electrification is a public policy cost. Adoption of PGE’s proposal is plainly forbidden by the Commission’s laws and the Administrative Procedure Act, which require the Commission to “prepare and enter findings of fact and conclusions of law upon the evidence received,”^{56/} with PGE bearing the burden of proof. Therefore, the only justifiable decision is to reject PGE’s proposals and revisit this issue in UM 2024.

^{54/} UE 394 / PGE / 3000 Macfarlane – Tang / 15:14-16.

^{55/} UE 394 / PGE / 3000 Macfarlane – Tang / 16:12-14.

^{56/} ORS 756.558(2).

E. The Commission should reject PGE’s proposal to initiate a single-issue general rate case (“GRC”) to address the Faraday Repowering project.

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. Recognizing that Faraday will not be in service by the rate effective date of this proceeding, PGE agreed to “remove Faraday from the revenue requirement for the May 9 price effective date.”^{57/} PGE now proposes “that the Commission allow a continuation of the 2022...GRC...as a second phase (2022 GRC - Phase II) starting in the July-August 2022 timeframe that will be focused on the Faraday Repowering Project.”^{58/} PGE states that “[t]he Faraday Repowering Project is expected to be placed in service in the fourth quarter of 2022...[and] [t]he newly hired general contractor will provide a detailed construction schedule by mid-February 2022.”^{59/}

However, the 2022 GRC – Phase II would happen prior to Faraday being placed into service. The Faraday Repowering project has been and continues to be plagued with substantial timing and budgeting issues. The project is currently more than 100% over budget and substantially delayed.^{60/} The in-service date for the project remains unknown and it is therefore not appropriate for the Commission to approve PGE’s 2022 GRC – Phase II proposal. PGE asserts that delays in the construction schedule were due to, among other things, “the 2020 wildfires, flooding events in 2020 and early 2021, the February 2021 ice storm...by the ongoing COVID-19

^{57/} Partial Stipulation, at 3:3 (Jan 13, 2022).

^{58/} UE /394 / PGE / 2600 Bekkedahl - Tinker / 1:20-22.

^{59/} UE 394 / PGE / 2600 Bekkedahl - Tinker / 10:4-6.

^{60/} AWEC/300 Mullins/16:18-17:2.

pandemic...and production delays by the original construction general contractor due to quality and safety issues...”^{61/} There is no reason to believe that additional delays may not take place.

Contrary to PGE’s response, its new proposal does not address AWEC’s concerns. PGE has yet to provide an updated budget estimate associated with this new in-service date. PGE’s single-issue GRC proposal will still require parties to make a prudence finding on the project before it is put in service and final costs are known. Additionally, PGE’s proposal will deprive parties of an opportunity to identify offsetting savings or revenues that would offset all or some of the rate increase associated with the project.

Therefore, the Commission should reject PGE’s proposal for a single-issue GRC to only consider Faraday. As PGE is the party with the burden of proof, AWEC believes that the most appropriate resolution of Faraday in this proceeding is for the Commission to make no determination on the process for how it should ultimately be included in rates (if at all), and leave that decision to PGE. If, however, the Commission does agree with PGE that a separate proceeding for Faraday should be ordered in this case, it should ensure that this proceeding does not commence until after the project is in service and allow parties to the proceeding to raise any relevant issues that may impact PGE’s overall revenue requirement, not just the Faraday Repowering project. If only Faraday is considered in a subsequent proceeding, there is substantial risk of the Company over-collecting its total costs due to single-issue ratemaking concerns.

^{61/} UE 394 / PGE / 2600 Bekkedahl - Tinker / 10:11-13; 20-21; 23.

F. PGE’s current Level III storm methodology fairly considers the effects of climate change.

As the record shows, PGE has failed to carry its burden of proof regarding its Level III storm costs proposal, and it should therefore be rejected. PGE proposed “a balancing account where base prices would continue to include the 10-year average of Level III storm costs, but these amounts would be held in a reserve account that would be allowed to go negative in years that restoration costs exceed the reserve amount. PGE would assume 10% of the costs of any negative balance, with customers responsible for the other 90%. PGE would also refund or recover any positive or negative balance that exceeds \$12 million.”^{62/} Notably, the Commission rejected a storm cost balancing account proposal in UE 335, PGE’s last rate case, and invited PGE to make an alternative proposal that was evidentiarily justified. However, PGE has once again failed to provide the evidence necessary to support its Level III storm costs proposal.

In response to AWEC’s opposition to the proposal, the Company provided broad references to the impacts of climate change. However, “the current methodology has allowed PGE to sufficiently recover its storm costs, including the opportunity to defer costs associated with extraordinary events, such as the 2021 Ice Storm.”^{63/} Additionally, “the current methodology, which relies on a ten year-average of Level III storm costs escalated for inflation, is well suited to capture the impacts of climate change in the rolling calculation.”^{64/} As shown in AWEC’s testimony, the current Level III storm methodology already fairly considers the effects of climate change. AWEC further presented evidence that PGE’s analysis of storm costs is

^{62/} AWEC/100 Mullins/38:10-15 citing PGE/800, Bekkedahl-Jenkins/62:20-63:7.

^{63/} AWEC/300 Mullins/20:15-17.

^{64/} AWEC/300 Mullins/21:4-5.

fundamentally flawed because the Company ignored \$10 million in costs from the 1995-1996 ice storms.^{65/} Thus, AWEC performed its own analysis that ultimately showed that “Level III storm costs actually declined over the 27-year period.”^{66/}

According to PGE, it did not include the 1995 event that led to \$10 million in costs because it was a declared emergency by the Governor and PGE “specifically excluded declared emergencies from PGE Exhibit 1405 to address events relating solely to the Mechanism.”^{67/} PGE presents two graphs that summarize the costs attributable to Level III events, both including and excluding declared emergencies.^{68/} According to PGE, the graphs show that “Events tend to occur in clusters and that they are increasing in cost over time.”^{69/} However, as explained by Mr. Mullins, “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 in the context of a Level III storm.”^{70/} PGE further blatantly misstates AWEC’s position on this issue, asserting that “AWEC...implicitly acknowledge[s] that the 10-year average is not adequate.”^{71/} As explained in AWEC’s Rebuttal Testimony, the 10-year average fairly captures the impacts of Level III storm costs.^{72/} Because PGE has failed to carry its burden of proof regarding its Level III storm costs proposal, it is unreasonable that the Commission adopt PGE’s proposal and deviate from Commission precedent. As such, the Commission must again, as it

^{65/} AWEC/300 Mullins/21:12-18.

^{66/} AWEC/300 Mullins/21:22-23.

^{67/} UE 394 / PGE / 2400 Bekkedahl – Tooman / 4:5-7.

^{68/} UE 394 / PGE / 2400 Bekkedahl – Tooman / 4:Figure 1; 5:Figure 2.

^{69/} UE 394 / PGE / 2400 Bekkedahl – Tooman / 5:5.

^{70/} AWEC/300 Mullins/22:7-11.

^{71/} UE 394 / PGE / 2400 Bekkedahl – Tooman / 10:2-3.

^{72/} See AWEC/300 Mullins/22:8-11.

has previously done in UE 335, reject PGE's proposed balancing account and retain the existing Level III Storm mechanism.

IV. 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) Initiate a new consolidated proceeding to evaluate the UM 2115 Wildfire Deferral, the UM 2156 Ice Storm Deferral, and the UM 2119 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;
- (4) Reject PGE's 2022 GRC - Phase II proposal for the Faraday Repowering project; and
- (5) Reject PGE's proposed balancing account and retain the existing Level III storm mechanism.

Dated this 7th day of February, 2022.

Respectfully submitted,

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