

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

November 1, 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 Opening Brief of the Alliance of Western Energy Consumers in the above-referenced docket.

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

Sincerely,

/s/ Jesse O. Gorsuch
Jesse O. Gorsuch

Enclosure

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 2152

In the Matter of)
)
PORTLAND GENERAL ELECTRIC)
COMPANY,)
)
Detailed Depreciation Study of Electric Utility)
Properties.)
_____)

**OPENING BRIEF
ON BEHALF OF THE
ALLIANCE OF WESTERN ENERGY CONSUMERS**

November 1, 2021

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I. INTRODUCTION

Pursuant to the Administrative Law Judge's August 16, 2021 Ruling in the above-captioned docket, the Alliance of Western Energy Consumers ("AWEC") files this Opening Brief opposing the Multiparty Settlement Stipulation ("Stipulation") filed with the Oregon Public Utility Commission ("Commission") by Portland General Electric Company ("PGE" or "Company"), Commission Staff, and the Oregon Citizens' Utility Board ("CUB") (collectively, "Stipulating Parties"). AWEC recommends that the Commission either reject the Stipulation or modify it to incorporate AWEC's recommendations.

This case demonstrates the problems that can occur when the petitioning party (here, PGE) fails to support its filing with testimony. In this case, the problem was exacerbated when the Stipulating Parties entered into a comprehensive settlement of all issues without any party having filed any testimony or demonstrated any significant due diligence in reviewing PGE's depreciation study. At the time of settlement discussions, AWEC had not identified the significance of PGE's theoretical reserve imbalance, so it could not raise this issue within the context of settlement. It was only through further investigation after settlement discussions had concluded that AWEC identified the size of this imbalance. CUB's witness admitted that he was unaware of the size of PGE's reserve imbalance until AWEC raised it in testimony.^{1/}

The existence and size of PGE's theoretical reserve imbalance raises important policy questions for the Commission and is the primary reason AWEC opposes the Stipulation. These excess reserves – paid for by past customers – give the Commission a singular opportunity to

^{1/} Tr. at 71:1-4 (Oct. 12, 2021).

dramatically reduce the costs and risks to customers of PGE's interest in Units 3 and 4 of the Colstrip Generating Station ("Colstrip"). While the Stipulation accelerates Colstrip's probable retirement date to the end of 2025, AWEC's proposal would accelerate it even further, to 2022, and, by offsetting depreciation expense with excess reserves, would do so without the significant cost increase to current customers that the Stipulation requires.

The Stipulation's proposal to amortize the reserve imbalance over the remaining life of PGE's property also creates intergenerational inequity. According to the current depreciation study, past customers have overpaid depreciation expense by a massive amount -- \$685 million, more as a percentage of calculated accumulated depreciation than any other utility the Stipulating Parties could identify. These customers deserve to receive the benefits of their overpayments, and AWEC's proposal to amortize the reserve imbalance over a 10-year period is much more likely to accomplish this goal than the Stipulation's 34-year amortization period.

Finally, the Stipulation includes average service lives and net salvage parameters for certain accounts that are not evidence-based. Most egregiously, the Stipulation accelerates the average service life for PGE's wind generators to 30 years, based in part on flawed analysis from Commission Staff and their experience of one problem at a non-PGE owned wind facility. This change will materially affect the economics of PGE's current and future wind plants.

While AWEC recommends that each of its adjustments and proposals made in testimony and discussed below be incorporated into a modified Stipulation, each of AWEC's recommendations also stand on their own. The Commission could, for instance, authorize a reserve transfer to buy down the undepreciated value of Colstrip, but not authorize accelerated

amortization of the remaining reserve balance, or vice versa. AWEC submits that doing both would serve the public interest and result in just and reasonable rates, but ultimately the Commission is the arbiter of the public interest, and AWEC has provided the Commission with several options to achieve a just and reasonable result.

II. BACKGROUND

PGE filed for Commission approval of new depreciation rates in the above-referenced docket on January 15, 2021. These rates were supported by a Depreciation Study performed by Gannett Fleming, Inc. of PGE's electric properties as of December 31, 2019, which set forth an annual depreciation expense of \$301.1 million to be collected from ratepayers,^{2/} equivalent to a \$9.5 million reduction to current depreciation expense.^{3/} PGE did not accompany this study with any supporting testimony or exhibits, nor were there any descriptions of major system changes to explain the \$301.1 million in depreciation expense. PGE requests that new rates go into effect on the rate-effective date of its pending general rate case, May 9, 2022.^{4/}

On June 24 and 28, 2021, PGE, CUB, Staff, and AWEC participated in settlement conferences. Those discussions resulted in a "compromise settlement between PGE, Staff, and CUB."^{5/} AWEC did not join the Stipulation. On July 6, 2021, prior to any testimony being filed in the proceeding by any party, the Stipulating Parties moved to suspend the procedural schedule explaining that the Stipulating Parties reached a settlement in principle. On July 29, 2021, the Stipulating Parties filed the Stipulation and Joint Testimony in support of the Stipulation in

^{2/} Depreciation Study, at iv.

^{3/} PGE Initial Filing, Cover Letter at 2.

^{4/} Id. at 1.

^{5/} Stipulation ¶ 12.

which the Stipulating Parties addressed Advanced Metering Infrastructure (“AMI”), Wind Generation, Net Salvage Rates, and Colstrip’s probable retirement date.^{6/} The Stipulation results in “a depreciation expense of \$300,427,429 or an aggregated depreciation rate of 3.21 percent[.]”^{7/} For AMI, the Stipulating Parties recommend “a curve-life combination of 20-R2.5 (20 year of average service life and R2.5 type of dispersion) with a -2 percent net salvage rate.”^{8/} For Wind Generation, PGE’s initial recommendation was a survivor curve of 35-R3, whereas Staff recommended a 25-R1. As a compromise, Stipulating Parties recommend utilizing a 30-R3 curve for wind generators.^{9/} The Stipulation also modifies certain net salvage rates.^{10/} Finally, the Stipulating Parties agreed to change Colstrip’s probable retirement date from December 31, 2027 to December 31, 2025.^{11/} The Stipulating Parties make no other changes to PGE’s filed depreciation study, and other than a rote statement that the Stipulation will result in just and reasonable rates,^{12/} the Stipulating Parties offer no testimony on any other aspect of the depreciation study.^{13/}

On September 17, 2021, AWEC filed its Objections to the Stipulation, which was accompanied by the Opening Testimony of Dr. Lance D. Kaufman. Dr. Kaufman identified several concerns with the depreciation rates that would result from the Stipulation. Specifically, Dr. Kaufman showed that PGE’s current “depreciation study shows that book reserves are \$685

^{6/} Stipulating Parties/100, Peng – Gehrke – Spanos / i.

^{7/} Id. at 5:7-8.

^{8/} Id. at 5:24-6:1-2.

^{9/} Id. at 7:17-19; 8:1.

^{10/} Id. at 9:8-10:7.

^{11/} See Id. at 10:23-24; 12:10-11.

^{12/} Stipulation ¶ 13.

^{13/} See Stipulating Parties/100.

million larger than calculated accumulated depreciation [“(CAD”)].”^{14/} This represents 19% of CAD.^{15/} Excess reserves are a type of reserve imbalance that can occur “as the result of changes in expectations regarding retirement and net salvage characteristics, or from deviations of actual retirements and salvage from expectations underlying depreciation rates.”^{16/} PGE’s excess reserves are larger as a percentage of CAD than any other utility identified in the record.^{17/}

The Stipulation does not address PGE’s reserve imbalance; thus, by default, its recommendation is to amortize this imbalance over the remaining life of PGE’s plant of 34 years.^{18/} By contrast, Dr. Kaufman proposed that: (1) the excess reserves be used to fully depreciate Colstrip; (2) the remaining excess reserves be amortized over 10 years; and (3) amortization be revisited in PGE’s next depreciation study to determine whether continued amortization is appropriate.^{19/}

Dr. Kaufman also recommended several modifications to average service lives of certain PGE accounts. Specifically, Dr. Kaufman opposed the Stipulation’s proposal to shorten the average service life of PGE’s wind generators from 35 years with an R3 curve to 30 years with an R3 curve.^{20/} The Stipulation’s adoption of a 30-year average life was based in part on Staff’s

^{14/} AWEC/100, Kaufman/7:17-18, citing AWEC/104.

^{15/} Id. at 10:3-4. Book reserves “is the actual accumulated depreciation reserve that resulted from historic depreciation rates and retirements” whereas “CAD is the amount of depreciation that would be accumulated using current plant balances, proposed depreciation parameters, and the depreciation model.” (AWEC/100 Kaufman/9:2-4; AWEC/100 Kaufman/9:1-2). Excess depreciation reserves occur when CAD reserves exceed book reserves. Public Utility Depreciation Practices NARUC, August 1996, at 63. NARUC refers to excess reserves as reserve excess. Other sources refer to excess reserve as reserve surplus.

^{16/} AWEC/100, Kaufman/9:9-11 (internal citation omitted).

^{17/} AWEC/216.

^{18/} AWEC/100, Kaufman/10:7-10.

^{19/} Id. at 22:16-23:5.

^{20/} Id. at 31:6-12.

recommendation of a 25-year average life,^{21/} which Dr. Kaufman testified was itself “based on incorrect assertions.”^{22/} Dr. Kaufman recommends an R4 curve with a 38-year average life based on PGE’s historic data and industry statistics.^{23/}

Dr. Kaufman also recommends changes to the following accounts^{24/}:

Account	Parties	AWEC Recommendation
311.00	S1.5-90	R3-98
332.00	R3-105	R3-120
341.00	R3-70	R3-80
341.01	R4-40	S3-50
344.01	R3-30	R4-38
345.00	R2.5-50	R3-60
345.01	S2.5-30	S2-45
352.00	R2.5-70	R2.5-75
356.00	R2.5-65	R2.5-70

Every recommendation is supported with specific testimony and analysis based on PGE’s historical retirement data, industry statistics, and informed judgment.^{25/} For most of these recommendations, there is no account-specific testimony in the record other than Dr. Kaufman’s testimony.

III. ARGUMENT

AWEC’s objections to the Stipulation can be grouped into two buckets. The first bucket is that, by amortizing a \$685 million theoretical reserve imbalance over the remaining life of PGE’s property, the Stipulation creates intergenerational inequity and economically inefficient

^{21/} Stipulating Parties/100, Peng-Gehrke-Spanos/7:15-8:6.

^{22/} AWEC/100, Kaufman/31:10-12.

^{23/} Id. at 33:2-34:2.

^{24/} Id. at 2:9-10.

^{25/} Infra n. 146-148.

rates for customers. It does this in two ways: (1) it requires current customers to pay more to fully depreciate Colstrip than is reasonable and keeps this coal plant in customer rates longer than is in the public interest; and (2) it amortizes the reserve imbalance over a period that virtually assures the customers who contributed to it will not realize the benefits. The second bucket is that the Stipulation results in unreasonable average service lives for certain accounts, including PGE's wind generators, which will unnecessarily increase costs for current customers.

Importantly, the Stipulating Parties do not dispute any of AWEC's analysis. They do not dispute the size of the theoretical reserve imbalance, nor have they identified a single instance of a utility that has had an imbalance larger than PGE's as a percentage of CAD.^{26/} Additionally, other than an unsubstantiated statement by Staff's witness made at the hearing,^{27/} the Stipulating Parties have not disputed the accuracy of Dr. Kaufman's survivor curves and average service lives.

Instead, the Stipulating Parties' rebuttal to AWEC's recommendations relies on the formation of straw men to knock down and rhetorical hand-waving. Their positions are either wholly unsupported, or outright contradicted, by the evidence, precedent, and depreciation authorities. The testimony is designed to convince through proclamation, not reasoning and analysis.

For example, the Stipulating Parties declare that PGE's theoretical reserve imbalance "for most of the Company's depreciable plant accounts ... is within a range that is reasonable."^{28/} As

^{26/} Exh. AWEC/214, AWEC/215, AWEC/216.

^{27/} Tr. at 69:9-70:21 (Oct. 12, 2021).

^{28/} Stipulating Parties/200, Peng-Gehrke-Spanos/15:13-15.

there is no citation for this statement, reasonable according to whom? The Stipulating Parties, it turns out.^{29/}

Also according to the Stipulating Parties, Dr. Kaufman’s testimony makes an assumption that “[p]revious depreciation rates for the Company, as accepted by the Commission, were ‘incorrect.’”^{30/} Are the Stipulating Parties quoting Dr. Kaufman’s use of the word “incorrect” here? No, the quotation marks are simply there to “emphasize” the word (an actual quote).^{31/} The Stipulating Parties spend pages of their testimony debunking this phantom quotation and another straw man, which is that Dr. Kaufman’s testimony assumes that “[e]stimates made today are completely accurate.”^{32/} This is clearly false, as Dr. Kaufman’s recommendation for amortization of excess reserves includes a proposal that “the Commission reevaluate PGE’s excess reserves in its next depreciation study to determine whether continued amortization is appropriate. This will prevent over-amortization of reserves if PGE’s trends reverse direction.”^{33/}

Most egregiously, though, the Stipulating Parties testify that “[m]ost utilities, Commissions and depreciation texts agree that theoretical reserve differences frequently exist and are best resolved using the remaining life technique.”^{34/} Again, this position is advanced without citation to anything. Their unsupported testimony continues by claiming that an exception exists when “unique and significant circumstances otherwise warrant deviation from

^{29/} Tr. at 119:24-120:4 (Oct. 11, 2021).

^{30/} Stipulating Parties/200, Peng-Gehrke-Spanos/17:5-6.

^{31/} Tr. at 123:10-11 (Oct. 11, 2021).

^{32/} Stipulating Parties/200, Peng-Gehrke-Spanos/17:4

^{33/} AWEC/100, Kaufman/23:3-5.

^{34/} Stipulating Parties/200, Peng-Gehrke-Spanos/7:10-11.

this practice[.]” but “the size of the reserve imbalance alone does not justify such treatment.”^{35/}

This is flatly contradicted by depreciation authorities, including the scholars who “taught [Mr. Spanos] depreciation.”^{36/} Wolf and Fitch write:

The amortization method of adjustment uses the revised estimates of life and salvage characteristics to compute the calculated accumulated depreciation (CAD) to serve as a guide when determining the appropriate adjustment. The CAD is compared to the accumulated provision for depreciation; *a significant difference between the two shows that an adjustment to the accumulated provision for depreciation may be advisable.* The adjustment can be allocated in several ways, which might include (1) *a lump sum equal to the adjustment made immediately,* (2) *amortization of the adjustment over a fixed period (e.g., over 5 years),* or (3) *amortization of the adjustment over the remaining life of the property.*^{37/}

Similarly, the National Association of Regulatory Utility Commissioners (“NARUC”) writes:

Recognizing the nature of depreciation and its requirement for future estimations, no adjustment in annual depreciation accruals to reflect a reserve requirement, based on current rates, should be made *unless there is a clear indication that the theoretical reserve is materially different from the book reserve.*

Whereas the judgment of materiality is subjective, *if further analysis confirms a material imbalance, one should make immediate depreciation accrual adjustments. The use of an annual amortization over a short period of time or the setting of depreciation rates using the remaining life technique are two of the most common options for eliminating the imbalance.*^{38/}

There is no clearer example of a material difference between theoretical and book reserve than PGE’s, which is larger than any other utility’s in the record.^{39/} Moreover, at least the following states have adopted fixed amortizations or transfers of theoretical reserve imbalances: (1)

^{35/} Id. at 7:13-14; 9:20-21.

^{36/} Tr. at 52:21 (Oct. 11, 2021).

^{37/} AWEC/203 at 8 (Frank K. Wolf & W. Chester Fitch, Depreciation Systems, Iowa State University Press (1994)) (emphasis added).

^{38/} AWEC/204 at 4 (NARUC, Public Utility Depreciation Practices (1996)) (emphasis added).

^{39/} AWEC/216.

Arizona;^{40/} (2) Connecticut;^{41/} (3) Florida;^{42/} (4) Idaho;^{43/} (5) Kentucky;^{44/} (6) Maine;^{45/} (7) Maryland;^{46/} (8) Minnesota;^{47/} (9) Nevada;^{48/} (10) New Hampshire;^{49/} (11) New Jersey;^{50/} (12)

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- ^{40/} Arizona Corporation Commission, Docket Nos. E-01933A-15-0239 and E-01933A-15-0322, Decision No. 75975, at 10:3-8 (Feb. 24, 2017) (The Arizona Corporation Commission approved a proposal to transfer \$90 million in excess distribution reserves to Unit 1 of the San Juan Generating Station.)
- ^{41/} Connecticut Department of Public Utility Control, Docket No. 09-12-05, at 458- 459 (June 30, 2010) (The Connecticut Department of Public Utility Control ordered Connecticut Light and Power Company to “amortize \$ 74 million of the depreciation imbalance over seven years to correct for intergenerational inequities that occurred.”).
- ^{42/} Florida Public Service Commission Docket Nos. 080677-IE/090130-EI, Order No. PSC-10-0153-FOF-EI at 21-22 (Mar. 17, 2010) (The Florida Public Service Commission agreed with a recommendation from the Office of Public Counsel that unrecovered costs associated with the retirement of the Cape Canaveral and Riviera power plants be offset by a portion of Florida Power & Light’s reserve surplus for steam production investment.).
- ^{43/} Idaho Public Utilities Commission, Case No. PAC-E-13-02, Order No. 32926, ¶12 (Nov. 18, 2013) (The Idaho Public Utilities Commission approved a request to expedite amortization of excess reserves at the Gadsby Plant and Hunter Plant.).
- ^{44/} Kentucky Public Service Commission, Case NO. 10387, at 1-2 (“Contel proposed a 5-year amortization of depreciation reserve imbalance that have remaining lives of over 5 years. The proposed depreciation and amortization amounts would generate an increase in depreciation accrual of \$333,000 annually based on plant account balances as of the end-if-study date...After consideration, the Commission has determined that Contel’s study should be approved.”).
- ^{45/} Maine Public Utilities Commission, Docket No. Docket No. 97-116, Order, at 13 (Feb. 9, 1998) (The Maine Public Utilities Commission found that the overaccumulated depreciation reserve of approximately \$3.5 million “should be flowed back to ratepayers over a 2-year period beginning when new rates resulting from this proceeding take effect. This will result in an annual flowback of about \$ 1.781 million. We find that ratepayers should receive the benefit of this overaccrual as soon as possible.”).
- ^{46/} Public Service Commission of Maryland, Docket No. 9286, Order, at 81 (July 20, 2012) (The Public Service Commission of Maryland found it “appropriate to rebalance depreciation account reserves prospectively in order to align those reserves with expected future retirements and salvage accruals.”).
- ^{47/} Minnesota Public Utilities Commission, Docket No. E-002/GR-13-868, Order Setting Interim Rates, at 2-3 (Jan. 2, 2014). (“Xcel proposes altering an amortization schedule. In Xcel’s last rate case the Commission directed Xcel to amortize its surplus accumulated depreciation over a period of eight years. Xcel now proposes to pay these funds back over three years... Xcel asks the Commission to find that exigent circumstances exist if such a finding is necessary to permit implementation of the proposed interim rates...the Commission may alter an amortization schedule without altering the nature and kind of costs being amortized. Consequently the revised surplus depreciation schedule may be incorporated into interim rates without a finding of exigent circumstances.”).
- ^{48/} Public Utilities Commission of Nevada, Docket Nos. 13-06002; 13-06003; and 13-06004, at 64 ¶¶ 181, 182, Modified Final Order (Feb. 3, 2014). (The Public Utilities Commission of Nevada approved the use of \$17.2 million of theoretical reserves to offset the utilizes regulatory asset for legacy analog meters. The Commission explained “In considering whether to return theoretical reserve imbalance monies to current customers, the Commission must strike a balance between a number of competing interests in order to arrive at a just and reasonable resolution. The Commission must consider intergenerational inequities, impacts on the depreciation model, and the costs of returning monies to customers. The Commission seeks to strike an appropriate balance.”).

New York;^{51/} (13) Ohio;^{52/} (14) Utah;^{53/} (15) Vermont;^{54/} (16) Wisconsin;^{55/} (17) Washington;^{56/} and (18) Wyoming.^{57/} AWEC’s recommendation reflects accepted practice and has been

^{49/} New Hampshire Public Utilities Commission, Docket No. DE 03-200; Delivery Service Tariff NHPUC No. 3; Order No. 24,369, at 17; 27-28 (Sep. 2, 2004). (“Staff determined that the company had recorded depreciation reserves that were approximately \$55 million greater than they would have been under Staff’s depreciation accrual rates. Staff recommended that this excess reserve imbalance be amortized over approximately 10 years.” Staff’s recommendations were adopted, and the New Hampshire Public Utilities Commission found Staff’s recommendation “for the public good”).

^{50/} New Jersey Board of Public Utilities, Docket Nos. ER02080614 and ER02100724, Final Decision and Order, at 169-170 (March 3, 2004) (The New Jersey Board of Public Utilities modified the ALJ’s decision to adopt a 20-year amortization schedule for crediting excess depreciation back to ratepayers” and found “that shortening the amortization schedule to return the excess depreciation back to ratepayers more quickly is appropriate and reasonable in order to help offset the impact on customers of the rate increases associated with the recovery of deferred balances that were incurred over the Transition Period, as well as the increase in [basic generation service] charges.”).

^{51/} New York Public Service Commission, Case No. 07-E-0949, Order Establishing Electric Rate Plan for Orange and Rockland Utilities, Inc. at 24-26 (July 23, 2008) (The New York Public Service Commission approved a five-year amortization of excess reserves in order to mitigate rate increases for Orange & Rockland Utilities.); New York Public Service Commission, Case Nos. 09-E-0715; 09-G-0716; 09-E-0717; 09-G-0718, Order Establishing Rate Plan, at 14: (Sep. 21, 2010) (Parties filed a Joint Proposal that settled, among other things, the use of theoretical reserves. Per the Order, “[d]epreciation rates will be adjusted and reset. In addition, the full amounts of the excess depreciation reserve, currently \$ 303.9 million at NYSEG and \$ 105 million at RG&E, will be amortized over a 20-year period. This results in additional revenue requirement reductions of \$ 15.2 million each year for NYSEG electric and \$ 5.25 million for year three for RG&E electric, respectively.”).

^{52/} Public Utilities Commission of Ohio, Docket Nos. 89-616-GA-AIR; 89-617-GA-AIR; 89-618-GA-AIR; 89-619-GA-AIR; 89-620-GA-AIR; 89-943-GA-CMR; 89-944-GA-CMR; 89-1586-GA-COI, Opinion and Order, at 96-98;100 (Apr. 5, 1990) (Staff recommended and the Public Utilities Commission of Ohio accepted that the reserve deficiency for all accounts be amortized over a ten-year period.).

^{53/} Public Service Commission of Utah Docket No. 13-035-02, Order Confirming Bench Ruling Approving Stipulation on Depreciation Rate Changes (The Commission approved both reserve transfers and accelerated amortization over a 6.5-year period.).

^{54/} Vermont Public Service Board, Docket No. 6596, Final Order, at 55:61-62; 56-57 (July 15, 2002) (Vermont Public Service Board found that the utilities plant accounts had “either excess or deficient depreciation reserves” and therefore found it “reasonable to redistribute...depreciation reserves” and that “frequent reserve redistributions are not a serious problem.”).

^{55/} Public Service Commission of Wisconsin, Final Decision, at 9,12 (Dec. 23, 2014) (2014 Theoretical Depreciation Reserve Surplus of \$10,754,000. 2015 Theoretical Depreciation Reserve Surplus of \$ 5,485,000. The Public Service Commission of Wisconsin found that Northern States Power Company Wisconsin, d/b/a Xcel Energy “shall use escrow accounting treatment for any difference between the transmission-related projected theoretical depreciation reserve surplus provided to customers in this case, and the actual theoretical depreciation reserve surplus ultimately received by the company through the [Interchange Agreement].”).

^{56/} See Washington Utilities and Transportation Commission, Docket No. UE-130052, Order 01 Attachment 1 (Dec. 27, 2013).

^{57/} Wyoming Public Service Commission, Docket No. 20000-427-EA-13 (Record N0. 13436), Memorandum Opinion, Findings and Order Approving Stipulation, at 14-15:72 (Dec. 2, 2013) (The Wyoming Public

commonly adopted. As the Florida Commission stated, “[w]here significant reserve surpluses and deficits exist, corrective reserve transfers between accounts or amortization of the reserve imbalance should be considered. Whether the reserve imbalance is a surplus or a deficit, it violates the matching principle and represents a subsidy, and thus should be corrected.”^{58/}

At the hearing, Mr. Spanos repeatedly testified that depreciation requires amortization of the theoretical reserve imbalance in a manner that is “systematic and rational,” suggesting that AWEC’s proposal to amortize the theoretical reserve imbalance over a shorter period than the remaining life does not meet these criteria.^{59/} As the excerpts above demonstrate, however, that is simply not true. Other states have explicitly departed from the remaining life technique to achieve the intergenerational equity that a period of shorter amortization of excess reserves requires: “In a change to the remaining life technique used in Connecticut for many years, the Department believes, that in this case, it would be fair to ratepayers and the Company for the \$74 million imbalance under the old system to be amortized over seven years to correct for intergenerational inequities that occurred during the past seven years.”^{60/} AWEC’s method is not only accepted by depreciation authorities, it is encouraged when the imbalance is as large as PGE’s, and it has been implemented throughout the country.

As further demonstrated below, the Stipulating Parties’ Response Testimony is riddled with examples like this. A far-reaching statement is made without support, and close

Service Commission found that “the Parties’ agreement to use excess depreciation reserves is innovative and a solution that this Commission has not considered in previous cases” and that the rate savings to customers “created by using the excess reserves is reasonable when compared to the potential risk.”)

^{58/} AWEC/202 at 9.

^{59/} Tr. at 56:9-11 (Oct. 11, 2021).

^{60/} Connecticut Department of Public Utility Control, Docket No. 09-12-05, at 177 (June 30, 2010).

examination demonstrates that it is either wildly exaggerated or just wrong. As noted in AWEC's Objections to the Stipulation, PGE continues to carry the burden of proof in this case, even as a Stipulating Party.^{61/} It has failed to demonstrate that either its filed depreciation study or the Stipulation will result in just and reasonable rates for customers. By contrast, AWEC's proposed modifications to the Stipulation are based on sound analysis and accepted practices; they will result in just and reasonable rates for customers and should be adopted.

A. The Stipulation's proposal to amortize the theoretical reserve imbalance over the remaining life of the plant results in unjust and unreasonable rates.

The Commission has defined intergenerational equity as follows: "When determining the period over which utilities will recover the costs of assets incurred to produce future benefits, as well as the period over which customers will receive the benefit of utility cost savings, the Commission attempts to equitably allocate those costs and benefits to customers over time so no one generation of customers receives an inequitable share."^{62/} With respect to depreciation specifically, NARUC states that "the sole purpose of depreciation accounting is to rateably allocate the capital costs of the property over its average service life through current charges to utility expenses [T]he utility and regulators should strive to ensure that the unrecovered dollars are reasonable in relationship to the property's remaining life."^{63/}

In other words, in depreciation, intergenerational equity is the name of the game. A utility receives its capital recovery through depreciation and a return on its investment; the only material questions are when and how. The Stipulation answers these questions in a manner that

^{61/} AWEC Objection to Stipulation at 3-4.

^{62/} Docket Nos. DR 10, UE 88, UM 989, Order No. 08-487 at 66 (Sept. 30, 2008).

^{63/} AWEC/204 at 2 (NARUC, "Public Utility Depreciation Practices" at 187 (1996)).

creates intergenerational inequity by amortizing excess reserves over an excessively long period, and will harm customers and the public interest by including Colstrip in rates for far longer than is necessary or warranted.

1. The Stipulation imposes unnecessary costs and risks for Colstrip on customers

In its initial filing in this case, PGE emphasizes the “urgency in Executive Order 20-04 to act now” to achieve “rapid reductions of greenhouse gas emissions, at reasonable costs”^{64/} As PGE recently stated in its October 15, 2021 letter to the Commissioners accompanying its Final Draft 2021 All-Source Request for Proposals, “We hear our customers clearly: they want cleaner, greener and affordable energy as quickly as possible.”^{65/} PGE claims that it “is fully committed to helping Oregon reach its decarbonization goals,” citing its proposal to move Colstrip’s probable retirement date in its depreciation study from 2030 to 2027.^{66/} Yet, it resists AWEC’s proposal to use a small fraction of the Company’s excess reserves to fully buy down Colstrip’s net book value in 2022, despite the fact that this would achieve PGE’s own objective more than five years faster than it originally proposed, and over three years faster than in the Stipulation. This will not only further Oregon’s decarbonization policies, but will also benefit customers economically relative to the Stipulation and substantially reduce their risk associated with the uncertain future of this plant.

^{64/} PGE Initial Filing, Cover Letter at 1-2.

^{65/} Docket No. UM 2166, PGE Final Draft 2021 Request for Proposals, Cover Letter at 1 (Oct. 15, 2021). Pursuant to OAR 860-001-0460(1)(d), AWEC requests that the Commission take official notice of this document.

^{66/} PGE Initial Filing, Cover Letter at 2.

The case for AWEC’s proposal is even stronger now than when PGE filed its depreciation study. The Legislature passed House Bill 2021 this year, which sets emissions reduction targets for PGE of 80% below its baseline emissions level in 2030 and escalating to 100% below the baseline emissions level by 2040.^{67/} It also explicitly encourages early compliance with these targets.^{68/} That is precisely what AWEC’s proposal would do.

By using a portion of excess reserves to offset Colstrip’s undepreciated balance, AWEC’s proposal matches costs and benefits and avoids intergenerational inequity. Based on the Stipulation’s probable retirement date for Colstrip of 2025, past customers should have paid higher depreciation expense than they did when Colstrip’s probable retirement date was 2030 (in the 2015 depreciation study)^{69/} or 2042 (in the 2012 depreciation study).^{70/} CUB stated this issue well in its Opening Testimony in PGE’s ongoing general rate case:

Since 2016, Colstrip’s depreciation expense has accelerated on a regular cadence Prior to the passage of [SB 1547], the annual depreciation expense in 2016 for the Company’s share of Colstrip was 6.1 million dollars. On January 1, 2017, the Commission allowed [PGE] to increase depreciation expense to \$11.8 million, which was a \$5.6 million increase on [an] annual basis. In the Company’s Direct Testimony in UE 394, it proposed to accelerate Colstrip’s depreciable life to 2027, which increases Colstrip depreciation expense to \$23.7 million dollars [*sic*], which would have been an \$11.9 million dollar [*sic*] annual increase. In the ongoing depreciation case, Colstrip’s economic life was set to 2025, which will increase Colstrip’s depreciation expense to \$35.5 million per year.”^{71/}

^{67/} HB 2021 § 3. “Baseline emissions level” is defined as the average emission level between 2010 and 2012.

^{68/} HB 2021 § 12.

^{69/} Docket No. UM 1809, Order No. 17-365 at 5-6 (Sept. 26, 2017).

^{70/} Docket No. UM 1679, PGE Detailed Depreciation Study of Electric Utility Properties at II-26 (Dec. 5, 2013).

^{71/} Docket UE 394, CUB/200, Gehrke/14:12-15:2 (internal citations omitted). AWEC requests that the Commission take official notice of this testimony.

By using a portion of the theoretical reserve imbalance, the Commission will offset past under-collection of Colstrip capital with past over-collection of other production capital, neatly resolving both inequities. The Stipulation, by contrast, exacerbates intergenerational inequity by requiring customers through 2025 to pay higher depreciation rates for Colstrip,^{72/} despite the fact that they are getting no more value from this plant than past customers (and arguably less value given Colstrip's low dispatch rate in recent years).

The Stipulation also allows PGE to include Colstrip's ongoing operating costs in customer rates as late as December 31, 2030, despite it being fully depreciated in 2025. ORS 757.518(2) provides that "an electric company shall eliminate coal-fired resources from its allocation of electricity" and that this must occur "[o]n *or before* January 1, 2030 (emphasis added). ORS 757.518(4), meanwhile, contains a PGE-specific provision that allows the Company to request that it continue including the ongoing costs and benefits of Colstrip in customer rates for five years after it is fully depreciated. Read together, these provisions require PGE to fully depreciate Colstrip by no later than January 1, 2030, and allow PGE to continue to include Colstrip in rates for five years after that; however, if Colstrip is depreciated before 2030, then PGE must remove this plant from customer rates within 5 years of its depreciation date, even if those five years expire before 2030. Additionally, the statute makes clear that the Commission "shall authorize" PGE's request to include Colstrip in rates for five additional years, meaning that, if Colstrip continues to operate, the Commission has no discretion to prevent

^{72/} Tr. at 68:15-24 (Oct. 12, 2021).

inclusion of these ongoing costs in rates until as late as December 31, 2030 if the Stipulation is adopted.

Such an outcome would harm customers according to PGE's own analysis. PGE performed a "Colstrip Enabling Study" which determined that "removal of Colstrip from PGE's portfolio in 2025 provides customers the greatest reduction in the IRP portfolio metrics of cost and risk."^{73/} The Company also concluded that "[a]ccelerating the removal of Colstrip from PGE's portfolio certainly advances the state's GHG emissions reduction agenda and may reduce customer risk in a variety of future scenarios."^{74/} Thus, giving PGE the discretion to include Colstrip in customer rates through 2030 is not in the public interest. By contrast, if AWEC's proposal to transfer excess reserves to Colstrip is approved, this will result in full depreciation on or about May 2022 (depending on the date new depreciation rates go into effect), meaning that the absolute latest Colstrip could remain in customer rates under ORS 757.518 is May 2027. This outcome is better for customers and is a better reflection of State policy than the Stipulation, as demonstrated by PGE's own Colstrip Enabling Study.^{75/}

In further examples of rhetorical fearmongering, the Stipulating Parties warn that "there are cost allocation issues and potential jurisdictional issues with transferring reserves from other

^{73/} Exh. Stipulating Parties/201 at 20.

^{74/} Id. at 17.

^{75/} At the hearing, CUB's witness also argued that a 2025 probable retirement date for Colstrip was in the public interest because it aligns PGE's depreciation date with Colstrip's Washington utility owners under that state's Clean Energy Transformation Act ("CETA"). Tr. at 63:1-7 (Oct. 12, 2021). That, however, is not true. While CETA does require Washington utilities to eliminate coal generation from their allocation of electricity by 2025, PacifiCorp has received approval to fully depreciate Colstrip in its Washington rates by 2023. Washington Utilities and Transportation Commission Docket Nos. UE-191024, *et al.*, Order 09 ¶ 113 (Dec. 14, 2020). Thus, a 2025 depreciable date for PGE does not fully align the Company with its Washington counterparts, and puts it behind PacifiCorp.

functions,” and that “the Federal Energy Regulatory Commission (‘FERC’) has not typically allowed transfers of reserves across functions.”^{76/} These statements are inaccurate and unpersuasive.

With respect to cost-allocation, the Stipulating Parties fail to demonstrate what the cost allocation impact of AWEC’s proposal is. Mr. Spanos admitted that he had “not looked at [PGE’s] specific [cost allocation] models for this study.”^{77/} With cost allocation in mind, AWEC’s recommendation limits a transfer of the theoretical reserve imbalance to Colstrip from transmission and other production accounts,^{78/} which CUB agrees would substantially mitigate any cost allocation concerns between customer classes.^{79/} The Arizona Corporation Commission (“ACC”) approved a stipulation that transferred \$90 million of excess distribution reserves to offset the rate impact associated with accelerated depreciation of San Juan Unit 1, a coal plant.^{80/} Parties to that stipulation included the utility, ACC Staff, and the Residential Utility Consumer Office, which indicates that the cost allocation implications of this action were not significant to any of these parties.^{81/} By excluding distribution accounts, AWEC’s proposal would have even less impact on cost allocation than the ACC’s decision made under similar circumstances.

Yet, even if the Commission were concerned with the immaterial cost allocation issues associated with AWEC’s proposal to apply reserves from transmission plant to Colstrip, the size of PGE’s theoretical reserve imbalance is so large relative to Colstrip’s remaining undepreciated

^{76/} Stipulating Parties/200, Peng-Gehrke-Spanos/8:4-8.

^{77/} Tr. at 82:3-7 (Oct. 11, 2021).

^{78/} AWEC/100, Kaufman/28:18-29:3.

^{79/} Tr. at 82:10-22 (Oct. 11, 2021).

^{80/} Exh. AWEC/208.

^{81/} Id. at 4-10.

value that the Commission could limit the transfer to just three production-related accounts – Accounts 34200, 34400, and 34401 – and eliminate any potential cost allocation concerns. Collectively, these accounts contain approximately \$98.7 million in excess reserves.^{82/} While PGE refused to provide the information necessary to determine precisely what Colstrip’s undepreciated balance would be in May 2022,^{83/} when new depreciation rates will go into effect, Mr. Spanos confirmed that, when decommissioning costs are removed (which will be recovered separately through 2050), this balance should be in the range of \$90 million.^{84/} This represents less than 15% of the total reserve imbalance, virtually assuring that this transfer would not create a negative reserve imbalance in future depreciation studies.

To be clear, however, AWEC’s primary proposal would use excess reserves from both production and transmission not only to offset the Colstrip costs PGE proposes to recover through 2025, but also to offset its accrual for decommissioning costs. This also furthers intergenerational equity because it uses funds from ratepayers that benefitted from Colstrip to buy down PGE’s decommissioning obligation, which was incurred when those same benefits were produced.

With respect to the “potential jurisdictional issues” the Stipulating Parties identify, Mr. Spanos confirmed at the hearing that such issues could only be applicable to a multi-state utility, which PGE is not.^{85/}

^{82/} AWEC/104 at 1 (revised).

^{83/} Exh. AWEC/220-AWEC/223.

^{84/} Tr. at 87:6-88:15 (Oct. 11, 2021).

^{85/} Id. at 79:18-80:23.

Finally, the Stipulating Parties’ statement that FERC “has not typically allowed transfers of reserves across functions” comes without citation to a single FERC decision.^{86/} Indeed, it is unclear what this statement is even supposed to mean, given that FERC’s jurisdiction is limited to PGE’s interjurisdictional transmission system and wholesale transactions.^{87/} Regardless, the only FERC decisions the Stipulating Parties cite to in their testimony are two Florida Power decisions, discussed in the next section of this brief, that deal with the same depreciation issue and, as Mr. Spanos confirmed, do not address reserve transfers at all.^{88/}

Despite the Stipulating Parties’ hollow concerns, other states have approved transfers of excess reserves, and have done so for precisely the same reasons that AWEC advances here. As noted above, the ACC approved a settlement agreement that accelerated the depreciable life of the San Juan Generating Station (a coal plant) and transferred \$90 million of excess reserves from Tucson Electric Power’s distribution assets to this coal plant to offset the increase in depreciation expense.^{89/} In 2010, the Florida Commission approved a transfer of reserves to offset increased depreciation expense associated with, among other things, accelerating the depreciable lives of two coal generation units to reflect their near-term retirement.^{90/}

Reserve transfers are an effective and accepted practice to mitigate rate impacts from accelerating depreciation for generation nearing the end of its useful life. This practice advances intergenerational equity and is in the public interest. The Commission should modify the

^{86/} Stipulating Parties/200, Peng-Gehrke-Spanos/8:6-8.

^{87/} 16 U.S.C. § 824(b).

^{88/} Tr. at 95:17-23 (Oct. 11, 2021).

^{89/} AWEC/208 at 4.

^{90/} AWEC/202 at 2-3, 9.

Stipulation to use a portion of the theoretical reserve imbalance to immediately buy down PGE's remaining undepreciated investment in Colstrip.

2. By amortizing PGE's reserve imbalance over the remaining life of PGE's plant, the Stipulation results in intergenerational inequity and economically inefficient rates

AWEC has proposed to amortize excess reserves not transferred to Colstrip over a ten-year period. The Stipulating Parties will argue that AWEC's proposal results in intergenerational inequity, but they are wrong. It is the Stipulating Parties' proposal to amortize this reserve imbalance over the remaining life of the plant that creates intergenerational inequity.

The Stipulating Parties' sole argument in favor of their position on intergenerational inequity is that future customers will pay higher rates under AWEC's proposal than they would under the Stipulation.^{91/} AWEC does not dispute this, but that does not demonstrate intergenerational inequity. "The ratemaking principle of intergenerational equity explains that the period of cost recovery of an investment should correspond to the time it is in use and serving the customers paying for it."^{92/} A corollary to intergenerational equity is the "matching principle," which states that "costs should be borne by the customers that benefit from the expenditures."^{93/} Thus, whether future rates are higher or lower is not relevant; what matters is whether future rates are higher or lower than they should be *relative to* the benefits future customers will receive. The Stipulating Parties have conflated higher rates with inequitable rates.

^{91/} Stipulating Parties/200, Peng-Gehrke-Spanos/6:17-7:2; Tr. at 53:11-55:3 (Oct. 12, 2021).

^{92/} Docket No. LC 66, Order No. 17-386, Appendix B at 26 (Oct. 9, 2017).

^{93/} Docket No. UT 43, Order No. 87-406, 1987 Ore. PUC LEXIS 2 at *37 (Mar. 31, 1987).

Thus, when the Stipulating Parties testify that “current customers benefit from the existence of a theoretical reserve imbalance,”^{94/} the question they leave unanswered is, current customers benefit relative to what? The answer is that they benefit relative to past generations of customers.^{95/} Because depreciation returns a utility’s capital investment over time, customers do not pay more or less than this capital investment overall. If a positive theoretical reserve imbalance exists, as it does here, this means that, based on the current depreciation study, past customers paid more depreciation expense than the study indicates they should have.^{96/} Current customers benefit by virtue of the depreciation rates past customers paid.

As the Florida Public Service Commission has stated, “the very presence of a reserve imbalance indicates the existence of intergenerational inequity. Based on what is known today, the life estimates of yesterday are now viewed as being too short.”^{97/} Dr. Kaufman’s testimony in this case reflects the same principle: “Given that the reserve imbalance is due to historic depreciation expense and retirements, it is appropriate to consider the excess reserve as due to overcollection from existing and past customers.”^{98/} AWEC’s proposal to amortize a portion of the theoretical reserve imbalance over a 10-year period is specifically to address this intergenerational inequity. As the Florida Commission stated, “[t]he matching principle argues for a quick correction of any surplus; *the quicker the better so that the ratepayers who may have*

^{94/} Stipulating Parties/200, Peng-Gehrke-Spanos/6:17-18.

^{95/} AWEC/100, Kaufman/12:1-3.

^{96/} AWEC/203 at 7 (“A revision of the estimates of life and salvage results in the recognition that the accumulated provision for depreciation may now be higher or lower than necessary, depending on the magnitude and direction of the revised estimates.”).

^{97/} AWEC/202 at 6.

^{98/} AWEC/100, Kaufman/27:2-4.

overpaid would have a chance of benefitting.^{99/} By contrast, if the Stipulation is adopted, the reserve imbalance will be returned to customers over the 34-year remaining life of the plant. It is far less likely that past customers will receive the benefits of excess reserves when amortized over such a long period.

Moreover, by returning excess reserves to customers quickly, depreciation rates are also more quickly returned to their economically efficient level.^{100/} Under the remaining life technique, the reserve imbalance will subsidize future customer depreciation rates for years to come. This will send incorrect price signals to customers, one effect of which may be to discourage them from conserving energy because rates will be lower than they otherwise should be. Under AWEC's proposal, past customers are more likely to receive the benefit of overpaid depreciation rates while future customers are more likely to pay rates that align with their consumption of PGE's assets. That is the essence of intergenerational equity.

The Stipulating Parties advance a litany of arguments to suggest that AWEC's proposal is unconventional and will create unintended consequences. These arguments are all designed to mislead and do not withstand even cursory scrutiny. For instance, they argue that accelerated amortization of excess reserves "would not be consistent with [FERC's Uniform System of Accounts]."^{101/} The Stipulating Parties cite two FERC decisions in support of this conclusion, both of which deal with the same set of facts. In Docket ER11-2584-000, the Stipulating Parties claim that "an accelerated amortization of the reserve was not accepted."^{102/} But the cited order

^{99/} AWEC/202 at 6 (emphasis added).

^{100/} AWEC/100, Kaufman/12:1-3.

^{101/} Stipulating Parties/200, Peng-Gehrke-Spanos/13:3-5.

^{102/} Id. at 12:5.

merely requires Florida Power to file a FERC rate case to implement the impacts of accelerated amortization ordered by the Florida Commission and takes no position on amortization itself.^{103/} The other cited order, from Docket ER11-3584-000, is the result of the rate case Florida Power filed in response to the first order. While it does prohibit Florida Power from recording accelerated amortization on its FERC Form 1, this is an accounting technicality. FERC allowed Florida Power to record its retail rate adjustments associated with accelerated amortization in a regulatory asset, thus ensuring full cost recovery for the utility.^{104/}

Thus, even if the Stipulating Parties are correct that FERC would not consider AWEC's accelerated amortization proposal to be "consistent with the Uniform System of Accounts,"^{105/} this is irrelevant and immaterial. As noted above, numerous other utilities have implemented accelerated amortization of reserve imbalances, many voluntarily through stipulations, and there is no evidence to suggest that they have suffered financial harm or even increased accounting complexity as a result.^{106/} Indeed, the very passage the Stipulating Parties cite to in this FERC order makes clear that accelerated amortization of excess reserves "may be acceptable for retail ratemaking purposes."^{107/}

The Stipulating Parties also claim that, if AWEC's proposal to accelerate amortization of the theoretical reserve imbalance is accepted, it could result in a negative reserve imbalance in future depreciation studies. Once again, though, their testimony is both unsupported and

^{103/} AWEC/200 at 10.

^{104/} AWEC/201 at 5.

^{105/} Id. at 11:13-15.

^{106/} Supra n. 40-57.

^{107/} AWEC/201 at 5.

misleading. They testify that, as Oregon transitions from fossil fuels to other energy sources, “[i]t is very possible that ... assets will be replaced at a more rapid pace than has occurred historically.”^{108/} Therefore, if Dr. Kaufman’s proposal is accepted, they allege, “it is very likely that the theoretical reserve imbalance would be negative in future depreciation studies.”^{109/} Leaving aside the obviously speculative nature of this testimony, if it is indeed the case that this outcome is so “likely,” Mr. Spanos was unable to explain why the Stipulation’s proposed depreciation rates do not already reflect this “likely” outcome.^{110/} Moreover, Mr. Spanos confirmed that, if this does occur, it is more likely to occur to certain categories of plant, such as production.^{111/} Only \$83 million of PGE’s excess reserves, or 12% of the total theoretical reserve imbalance, is associated with production accounts.^{112/}

Similarly, Dr. Kaufman noted that PacifiCorp previously accelerated amortization of a theoretical reserve imbalance in Idaho (Mr. Spanos represented PacifiCorp in that proceeding).^{113/} In response, the Stipulating Parties testify that PacifiCorp’s Hunter Plant had a negative reserve imbalance in the next depreciation study.^{114/} The Stipulating Parties do not, however, note the circumstances in which this occurred. For one, Hunter was one of several assets with accelerated amortization of excess reserves. The others were the Gadsby, Blundell,

^{108/} Stipulating Parties/200, Peng-Gehrke-Spanos/6:5-7.

^{109/} Id. at 6:14-15.

^{110/} Tr. at 61:13-63:5 (Oct. 11, 2021).

^{111/} Id. at 60:9-21, 63:6-13.

^{112/} AWEC/104 (revised) at 1. Accounts 31100 through 34601 represent production accounts. Note that, as discussed above, three production-related accounts (34200, 34400, and 34401) collectively hold over \$98 million of excess reserves. The total for production-related accounts is less because certain production accounts, such as 33200, have negative reserve imbalances.

^{113/} AWEC/100, Kaufman/24:14-19; Tr. at 114:1-3 (Oct. 11, 2021).

^{114/} Stipulating Parties/200, Peng-Gehrke-Spanos/11:2-3.

and Colstrip plants, as well as PacifiCorp's distribution assets.^{115/} Neither the Stipulating Parties nor Mr. Spanos at the hearing testify that any of these other assets had negative reserves in the next depreciation study, and Mr. Spanos admitted that PacifiCorp's reserve imbalance remained positive overall.^{116/} Indeed, PGE currently has several accounts with negative reserves, but that does not change the fact that it has a positive reserve imbalance overall that is the largest on record.^{117/} Moreover, Hunter's excess reserves were amortized over a five-year period, faster than the amortization periods for any other accounts, a fact that Mr. Spanos conceded was material to Hunter's negative reserve imbalance in PacifiCorp's most recent depreciation study.^{118/}

By contrast, Dr. Kaufman has proposed amortizing PGE's excess reserves over 10 years.^{119/} Further, he proposes that the Commission revisit accelerated amortization in the next depreciation study to determine whether this treatment remains in the public interest.^{120/} PGE filed its last depreciation study four years ago – well in advance of the 10-year period Dr. Kaufman proposes – and the Commission's rules require utilities to file depreciation studies at least every five years.^{121/} The risk, therefore, that PGE's reserve imbalance will go negative overall before the next depreciation study is vanishingly small.

At the hearing, Mr. Spanos testified that every time another state commission authorizes accelerated amortization of excess reserves, it changes course in the next depreciation study,

^{115/} Exh. AWEC/213 at 5 ¶¶ 12-14.

^{116/} Tr. at 111:5-113:19 (Oct. 11, 2021).

^{117/} Exh. AWEC/104 (revised). See, e.g., Accounts 33200, 35400, and 39703.

^{118/} Tr. at 109:17-23 (Oct. 11, 2021).

^{119/} AWEC/100, Kaufman/22:21-23:5.

^{120/} Id.

^{121/} 860-027-0350(2).

suggesting that these commissions have regretted their decisions.^{122/} He also speculated on various “unique circumstances” that were present in other cases that led utility commissions to approve reserve amortizations^{123/} Once again, however, Mr. Spanos provides no evidence to support his conclusions, and it is contradicted by the facts. The practice of accelerating amortization of excess reserves is so common in Florida, for instance, that the Florida Commission has issued rules governing the practice.^{124/} Moreover, no party has identified a single case in which a utility commission reversed accelerated amortization of excess reserves on the grounds that its previous decision was in error. Rather, accelerated amortization is likely suspended when the reserve imbalance reaches a reasonable level – the same proposal AWEC makes here. Additionally, the “unique circumstances” Mr. Spanos identified at the hearing that purportedly justify accelerated amortization are nowhere to be found in the orders approving accelerated reserve amortizations. Rather, the size of the reserve imbalance, intergenerational equity, or the desire to limit rate impacts are the articulated reasons for this treatment in the vast majority of cases.^{125/} As these reasons all apply to PGE’s situation, the Commission should modify the Stipulation to amortize excess reserves in the manner AWEC recommends.

^{122/} Tr. at 109:24-110:18 (Oct. 11, 2021).

^{123/} Id. at 96:6-13.

^{124/} See Fla. Admin. Code Ann. r. 25-6.0436.

^{125/} See, e.g., AWEC/202 at 10; AWEC/208 at 7; New Jersey Board of Public Utilities, Docket Nos. ER02080614 and ER02100724, Final Decision and Order, at 169-170 (March 3, 2004); Connecticut Department of Public Utility Control, Docket No. 09-12-05, at 458-459 (June 30, 2010).

B. The Commission should modify the Stipulation to incorporate AWEC's changes to average service lives for certain accounts, including wind generators

Other than changes to Colstrip's depreciable life, survivor curves for AMI and wind generators, and net salvage for certain accounts, the Stipulation proposes no changes to PGE's filed depreciation study, nor do the Stipulating Parties provide any testimony on the reasonableness of the proposed survivor curves for any of PGE's other accounts. Dr. Kaufman demonstrates in his testimony both that the Stipulation's changes to average service lives for PGE's wind generators is unreasonable and that additional changes are necessary to other accounts to establish just and reasonable depreciation rates.

1. Stipulating Parties' proposal for PGE's wind generators is based on flawed analysis and irrelevant information

For account 344.01 Generators – Wind, PGE's initial survivor curve proposal was 35-R3.^{126/} Upon evaluating PGE's "curve life combination in a statistical model," Staff found that "the curve fitting Residual (SSR) for R1-25 showed a significantly better fit for a set of observations, and it has 22 percent less residual than does the curve of R3-35."^{127/} Staff therefore initially recommended a 25-R1 survivor curve. As a compromise between Staff's and PGE's positions, the Stipulating Parties agreed to utilize a 30-R3 curve for wind generation.^{128/}

According to Staff's witness, Staff's recommendation of a 25-year life was a factor in the Stipulating Parties ultimately proposing a 30-year life.^{129/} However, Staff's recommendation for

^{126/} Stipulating Parties/ 100 Peng – Gehrke – Spanos / 7:17-18.

^{127/} Id. at 7:20-23.

^{128/} Id. at 8:1.

^{129/} Tr. at 17:3:3-6 (Peng) (Oct. 12, 2021).

Account 344.01 is based on incorrect assumptions and analysis.^{130/} Dr. Kaufman conclusively demonstrated that Staff's analysis contains errors. In Confidential Exhibit AWEC/107, Dr. Kaufman showed that Staff's proposed 25-R1 curve was based on an assumption that there were no surviving assets after 10.5 years of life. In other words, because PGE does not have data beyond 10.5 years for its wind generators, Staff (perhaps inadvertently) made the incorrect assumption that no data is the equivalent of no survival. While Ms. Peng testified at the hearing that Dr. Kaufman is the one who made an error,^{131/} this is not supported by any evidence. Ms. Peng clarified that her position is based on nothing more than her own initial analysis supporting a 25-R1 curve – the same analysis that forms the basis of Confidential AWEC/107.^{132/} The Stipulating Parties did not rebut the accuracy of Dr. Kaufman's analysis in AWEC/107 or his testimony describing Staff's error.

In any event, the proof is in the pudding: even a cursory review of the graph at page 33 of Dr. Kaufman's testimony shows the clear divergence of Staff's proposed survivor curve from actual historical retirements.^{133/}

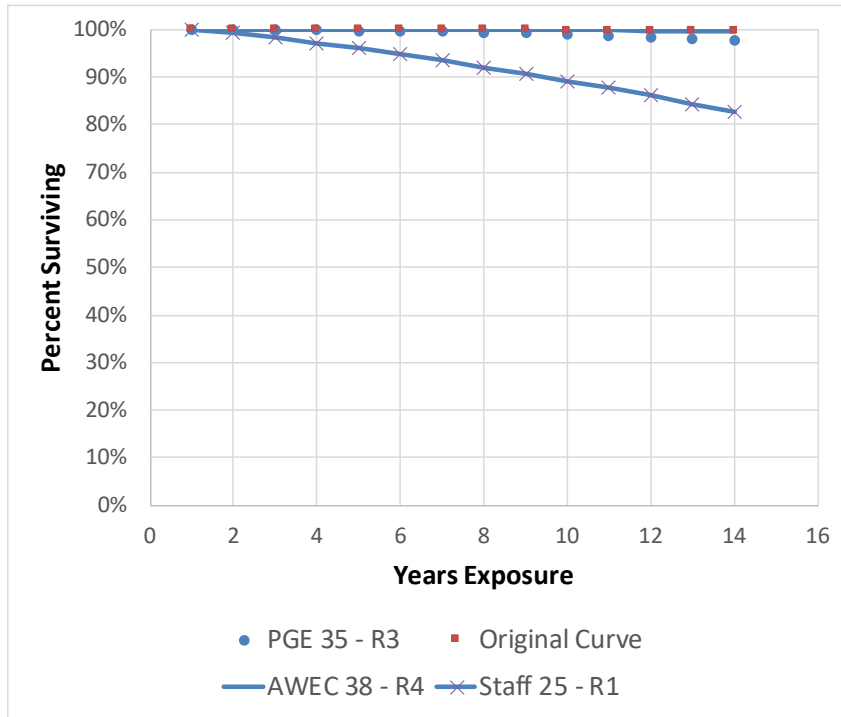
^{130/} See AWEC/100 Kaufman/32:3-4 citing Confidential AWEC/107.

^{131/} Tr. at 55:23-56:2 (Oct. 12, 2021).

^{132/} Id. at 70:10-21.

^{133/} AWEC/100, Kaufman/33.

Account	34401			Iowa Curve	Avg. Life	SSR
GENERATORS - WIND				R3	35	0.00119 PGE Proposed
Band	1			R3	30	0.00265 Stipulating Parties
EXPERIENCE	PLACEMENT			R1	25	0.12110 Staff Proposed
<u>BEGIN</u>	<u>END</u>	<u>BEGIN</u>	<u>END</u>	R4	38	0.00000 AWEC Proposed
2007	2019	2007	2019			-100% Change in SS



The Stipulating Parties do not dispute the accuracy of this graph. Further, not a single utility in the record has an average service life for wind generators as short as 25 years.^{134/}

The Stipulating Parties further assert that their recommendations for this and other accounts were based on PGE’s “practices and expectations for the future.”^{135/} However, during cross examination, when questioned about what specific information Staff and CUB have

^{134/} Conf. AWEC/106 at 7.

^{135/} Stipulating Parties/ 200 Peng – Gehrke – Spanos / 25:3.

regarding PGE’s current practices that influenced their decision to agree to a 30-R3 curve for wind generation, CUB’s witness deferred to PGE’s witness.^{136/} PGE, of course, proposed a 35-R3 curve in its depreciation study, which is presumably reflective of the Company’s practices and expectations.^{137/} Even more concerning, Staff’s witness stated that part of her influence in determining the 25-R1 curve for wind generation was a fire that took place at a plant located in Oregon and not owned by PGE or, indeed, any regulated utility.^{138/} To rely on a single fire that took place at a plant owned by an independent power producer as a basis to determine the survivor curve for PGE’s wind generators is unreasonable. A fire at a plant owned by a private investor has no bearing on PGE’s wind assets and is irrelevant in determining an asset’s service life.

Therefore, because Staff’s recommendation is part of the basis upon which the Stipulating Parties propose to deviate from PGE’s filed survival curve proposal, the Stipulating Parties’ utilization of a 30-R3 curve for wind generation is unsupported by evidence in the record and should be rejected.

AWEC proposes an R4 curve with a 38-year average life.^{139/} The Stipulating Parties incorrectly state that AWEC’s static analysis for account 344.01 “appears to be based exclusively on PGE plant data[]”^{140/} and “to estimate the average service life for wind generators, additional factors should be considered.”^{141/} However, AWEC did consider

^{136/} Tr. at 28:11-13 (Oct. 12, 2021).

^{137/} AWEC/102 at 2.

^{138/} Tr. at 33:21-34:6 (Peng) (Oct. 12, 2021).

^{139/} AWEC/100, Kaufman/33:2-3.

^{140/} Stipulating Parties/200, Peng – Gehrke – Spanos / 26:6.

^{141/} Id. at 26:6-7.

additional factors, including industry data,^{142/} the precedential effect of the Commission’s decision, and “the economic benefits of acquiring additional wind resources.”^{143/} Given the errors and unfounded basis for the Stipulating Parties’ recommendation of a 30-year life, the only reliable proposals in the record are PGE’s original 35-R3 and AWEC’s 38-R4.

2. The Stipulating Parties failed to dispute the validity of AWEC’s proposed retirement curves and service lives for accounts 311.00, 332.00, 341.00, 341.01, 344.01, 345.00, 345.01, 352.00, and 356

According to the Stipulating Parties, the service lives put forth by AWEC “are based primarily on the mathematical fit of the curves to the available historic data and do not adequately consider the many other factors that contribute to selection of an estimated survivor curve.”^{144/} The Stipulating Parties, therefore, do not dispute the accuracy of Dr. Kaufman’s calculations in developing his recommended average service lives and survivor curves for accounts 311.00, 332.00, 341.00, 341.01, 344.01, 345.00, 345.01, 352.00, 356, 392.10, and Sullivan hydro facility.^{145/} Additionally, once again the Stipulating Parties’ assertions are simply untrue. In addition to mathematical fit and historical data, Dr. Kaufman considered industry statistics,^{146/} FERC licenses and expected operating lives of a plant,^{147/} and informed

^{142/} AWEC/100, Kaufman/31:14-32:2.

^{143/} Id. at 34:6-13.

^{144/} Stipulating Parties/200, Peng – Gehrke – Spanos / 23:3-5.

^{145/} Account 311.00, Structures and Improvements for Steam Production Plant; Account 332.00, Reservoirs, Dams and Waterways for Hydro Production Plant ; Account 341.00, Structures and Improvements related to Beaver, Coyote Springs, Port Westward Complex, Carty, and the KB Pipeline Plants; Account 341.01, Structures and Improvements -Wind ; Account 344.01, Generators -Wind ; Account 345.00, Accessory Electric Equipment for Other Production Plant ; Account 345.01, Accessory Electric Equipment -Wind; Account 352.00, Structures and Improvements for Transmission Plant; Account 356, Overhead Conductors and Devices for Transmission Plant; and Account 392.10, Helicopter Transportation Equipment.

^{146/} AWEC/100, Kaufman/36:7-11; 39:5-9; 41:11-42:3; 43:16-18; 45:6-9; 47:1-4; 48:10-49:1.

^{147/} Id. at 34:17-35:4.

judgment^{148/} in determining appropriate service lives.

The Stipulating Parties also continue to advance misleading arguments in response to Dr. Kaufman’s recommended survivor curves. With respect to Dr. Kaufman’s recommendation for a 98-R3 curve for Account 311 – Structures and Improvements, for example, the Stipulating Parties testify that “[i]n making an estimate for this account ... it is worth considering that the only assets remaining in the account are those at the Colstrip location, which for purposes of depreciation, has an economic life that ends 2025”^{149/} This statement could lead one to believe that average service lives in this account cannot reasonably exceed four years, let alone the 98 years Dr. Kaufman proposes. But these are *interim* survivor curves.^{150/} Mr. Spanos himself proposed a 90-year average service life for this account in PGE’s depreciation study.^{151/}

PGE has failed to meet its burden of proof. The Stipulating Parties’ reasons for opposing AWEC’s proposed retirement curves and service lives are unfounded. AWEC’s proposed retirement curves and service lives are supported by evidence in the record and should therefore be adopted.

C. PGE can calculate depreciation rates based on AWEC’s recommendations

In keeping with the rest of their testimony, the Stipulating Parties end their Response Testimony with what appears to be a suggestion that depreciation rates cannot be calculated using Dr. Kaufman’s recommendations. They testify, for instance, that “[i]f [Dr.] Kaufman did not make [certain adjustments]...then his proposed depreciation rates ... will under-collect

^{148/} Id. at 43:12-44:6; 47:5-15.

^{149/} Stipulating Parties/200, Peng-Gehrke-Spanos/23:13-16.

^{150/} Tr. at 5:20-6:3 (Oct. 12, 2021).

^{151/} PGE Depreciation Study at VI-5.

depreciation by more than \$600 million.”^{152/} They further testify that “*there are reasons to believe* that [Dr.] Kaufman has not properly incorporated his recommendations into the development of reasonable depreciation rates” and “there is no way to confirm the reasonableness of his proposals.”^{153/}

In addition to the unsupported, misleading, and inaccurate nature of the Stipulating Parties’ Response Testimony in general, there are several reasons why the Commission should be skeptical of these statements. The first is that they come at the very end of the Stipulating Parties’ testimony. If the Stipulating Parties had identified a fatal flaw with Dr. Kaufman’s proposals or methodology, they presumably would not have buried the lead and mentioned it as an afterthought at the end of their testimony.

The Second is that this testimony is both contradictory and purposefully vague. On the one hand, the Stipulating Parties state that “there are reasons to believe” Dr. Kaufman did not properly incorporate his recommendations into the development of reasonable depreciation rates,^{154/} while on the other they complain that Dr. Kaufman did not calculate depreciation rates at all.^{155/} Clearly Dr. Kaufman cannot have improperly calculated depreciation rates that include his recommendations if he did not calculate depreciation rates in the first place. Additionally, the Stipulating Parties allege that there are modifications to depreciation rates that “should result” from Dr. Kaufman’s recommendations; that “if” these modifications are not made, under-collection of depreciation expense would occur; and that “there are reasons to believe” Dr.

^{152/} Stipulating Parties/200, Peng-Gehrke-Spanos/31:10-12 (emphasis added).

^{153/} Id. at 32:3-8 (emphasis added).

^{154/} Id.

^{155/} Id. at 30:14-15.

Kaufman has not incorporated his adjustments properly. These statements all add up to the conclusion that one could, in theory, calculate incorrect depreciation rates when incorporating Dr. Kaufman’s recommendations. They do not, however, stand for the proposition that depreciation rates that incorporate Dr. Kaufman’s recommendations are impossible to calculate correctly.

The third is that other states have had seemingly no problem calculating depreciation rates that include reserve transfers and accelerated amortization of excess reserves.^{156/} Gannett Fleming did so itself for PacifiCorp in Idaho.^{157/} The Stipulating Parties offer no reason why PGE’s circumstance is different.

The fourth is that the Commission has heard this refrain from Gannett Fleming before in this very case. Early in the procedural schedule, AWEC filed a motion to compel PGE to provide the outputs from Gannett Fleming’s depreciation model in a machine-readable format, such as Microsoft Excel.^{158/} In response, Mr. Spanos attested that “[t]o comply with this request, Gannett Fleming would need to reprogram its software to produce the Output Data in AWEC’s requested format,” and that “[r]eprogramming is a major undertaking for Gannett Fleming because it would trigger a recertification process for its software due to the International Standards of Operation (ISO) requirements for engineering firms.”^{159/} He also attested that “Gannett Fleming would incur substantial costs for the entire engineering firm if it were required

^{156/} Supra n. 40-57.

^{157/} Tr. at 117:13-118:14 (Oct. 11, 2021).

^{158/} See Docket No. UM 2152, AWEC Motion to Compel Discovery (May 3, 2021).

^{159/} PGE Response to AWEC Motion to Compel Discovery, Declaration of John J. Spanos ¶¶ 7, 9 (May 18, 2021).

to reprogram and recertify its software” and that “Gannett Fleming’s time-sensitive work for other utility clients would be delayed by the recertification process.”^{160/} Despite these assertions, when the Administrative Law Judge granted AWEC’s motion and required PGE to provide the requested data within 10 business days,^{161/} PGE complied without any apparent difficulty and did not seek to certify the ALJ’s ruling to the Commission. This experience demonstrates that, like the Stipulating Parties’ Reply Testimony overall, Gannett Fleming’s statements require careful scrutiny and a healthy level of skepticism.

The reason Dr. Kaufman did not calculate depreciation rates for PGE was to avoid the very type of controversy the Stipulating Parties raise over whether those rates were correctly calculated. As Gannett Fleming has calculated depreciation rates for numerous utilities, including those that have implemented fixed amortizations of reserve imbalances, the suggestion that PGE cannot calculate depreciation rates to reflect Dr. Kaufman’s proposals is patently absurd and should be dismissed as such.

IV. CONCLUSION

For the foregoing reasons, AWEC recommends that the Commission either reject the Stipulation or modify it to incorporate AWEC’s recommendations.

^{160/} Id. ¶ 9.
^{161/} Docket No. UM 2152, Ruling, at 7 (June 10, 2021).

Dated this 1st day of November, 2021

Respectfully submitted,

DAVISON VAN CLEVE, P.C.

/s/ Tyler C. Pepple

Tyler C. Pepple

Corinne O. Milinovich

1750 SW Harbor Way, Suite 450

Portland, Oregon 97201

(503) 241-7242 (phone)

(503) 241-8160 (facsimile)

tcp@dvclaw.com

com@dvclaw.com

Of Attorneys for the

Alliance of Western Energy Consumers