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November 10, 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 Closing 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.	)
	)
	)

CLOSING BRIEF

ON BEHALF OF THE

ALLIANCE OF WESTERN ENERGY CONSUMERS

November 10, 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 Closing 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").

The Stipulating Parties' Opening Brief fails to advance their position in favor of the Stipulation. In fact, their conclusory and casual brief barely mentions the primary contested issue in this case – how to amortize PGE's $685 million in excess reserves. Colstrip is not mentioned once. They also fail to rebut any of AWEC's recommendations for survivor curves and average service lives. Instead, the Stipulating Parties merely continue their practice of arguing by way of declaration rather than analysis based on the facts. Their depreciation method is "superior," they claim.[1/] It is "systematic and rational" and supported by "national best practices."[2/] All of these assertions are completely devoid of context and lack any citations to evidence, authorities, or precedent, yet they effectively represent the totality of the Stipulating Parties' position in favor of the Stipulation.

PGE carries the burden of proof to show that "the rate or schedule of rates proposed to be established or increased or changed is fair, just and reasonable."[3/] As a result of the lack of

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1/ Stipulating Parties' Opening Brief at 8 (Nov. 1, 2021).
2/ Id. at 3.
3/ ORS 757.210(1)(a).

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evidence in support of the depreciation rates contained in the Stipulation, PGE has failed to carry its burden. The Commission should reject the Stipulation or modify it to incorporate the adjustments and proposals recommended in AWEC's testimony[4/] to achieve a just and reasonable result in this proceeding.

II. ARGUMENT

As with their testimony in this case, the Stipulating Parties fail to substantiate the claims put forth in their Opening Brief with evidence or explanation. Although the Stipulating Parties "*believe* that the proposed depreciation rates contained in their Joint Stipulation and Supporting Testimony are fair, just and reasonable,"[5/] belief is an insufficient basis upon which to determine depreciation rates – the Commission's decisions must include "findings of fact and conclusions of law upon the evidence received."[6/] As a result, the Joint Stipulation and Supporting Testimony does not provide the evidence required to support fair, just and reasonable depreciation rates.

A. The record in this proceeding is insufficient for the Commission to adopt the proposed depreciation rates set forth in the Stipulation.

The lack of supporting evidence in the Stipulating Parties' Opening Brief is a continuance of concerning actions they have taken throughout this proceeding, including PGE's failure to support its filing with testimony,[7/] the Stipulating Parties Joint Testimony in support of the Stipulation in which only four issues were addressed in detail,[8/] their Rebuttal Testimony,

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4/ AWEC/100, Kaufman/ 22:16-23:5; 33:2-34:2; 2:9-10.
5/ Stipulating Parties' Opening Brief at 3.
6/ ORS 756.558(2).
7/ See PGE's Detailed Depreciation Study of Electric Utility Properties (Jan. 15, 2021).
8/ See Stipulating Parties/100, Peng – Gehrke – Spanos / i.

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which responded to AWEC's testimony in opposition to the Stipulation primarily through unsupported declarations, and the Stipulating Parties' witnesses' speculation on various issues during the October 11-12th hearing.[9/]

In an effort to rationalize PGE's decision to not file testimony with its depreciation study, the Stipulating Parties attempt to correlate this proceeding with previous unrelated PGE depreciation dockets, stating that "AWEC (or its predecessor organization) has been a party to multiple PGE depreciation dockets to date and had not raised this issue in these past dockets."[10/] AWEC's position in previous depreciation dockets is irrelevant here. As identified by Dr. Kaufman, a main issue in this proceeding is PGE's uniquely large excess reserve of $685 million.[11/] PGE's depreciation study, the Stipulation, and Supporting Testimony do not address PGE's excess reserves. Moreover, while their Rebuttal Testimony does address these reserves, none of that testimony is credible, as AWEC showed in detail in its Opening Brief. The Stipulating Parties' Opening Brief offers no new argument to support an extended amortization of this uniquely large reserve imbalance that would occur if the Stipulation were adopted and, indeed, spends all of two pages addressing this issue at the highest level possible.

The Stipulating Parties further state that "PGE and its experts responded to all data requests."[12/] This statement is only technically true. In the initial stages of this proceeding, PGE

9/ See, e.g., Tr. at 96:6-13 (Oct. 11, 2021). PGE's witness Mr. Spanos speculated on various "unique circumstances" that were present in other cases that led utility commissions to approve reserve amortizations but provides no evidence to support his conclusions; Tr. at 69:9-70:21 (Oct. 12, 2021). Staff's witness Ms. Peng made an unsubstantiated statement disputing AWEC's witness Dr. Kaufman's recommended survivor curves and average service lives.

10/ Stipulating Parties' Opening Brief at 5.

11/ AWEC/100, Kaufman/7:17-18, citing AWEC/104.

12/ Stipulating Parties' Opening Brief at 5.

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only provided the depreciation data in machine-readable format, as AWEC had requested, after the ALJ ordered it to do so following AWEC's motion to compel. Further, PGE objected to numerous data requests, stating that "AWEC can submit [the] request as part of Docket No. UE 394."[13] These responses were provided even to data requests that sought clearly relevant information necessary to determine the undepreciated balance of Colstrip when new depreciation rates will go into effect, in May 2022, which directly relates to the amount of excess reserves necessary to fully buy down Colstrip's net book value.[14] Contrary to its statements, PGE has not been forthcoming with information in this proceeding.

The Stipulating Parties also note that they "represent a broad range of interests" that all agree on the depreciation rates provided in the Stipulation.[15] But that Stipulation was filed before the issue of PGE's excess reserves was raised in the case. Not all of the Stipulating Parties were even aware of the magnitude of these excess reserves when they entered into the Stipulation.[16] Thus, the Stipulating Parties were operating with incomplete information when they agreed to the Stipulation, so the fact of their agreement should be given little weight.

B. The Stipulation results in intergenerational inequity and unjust and unreasonable rates and, thus, whether its method its "systematic and rational" is irrelevant.

According to the Stipulating Parties, the remaining life technique utilized by the Stipulating Parties to set the depreciation rates "is systematic and rational and supported by

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13/ See AWEC/212, AWEC/220, AWEC/221, AWEC/222, and AWEC/223.
14/ AWEC/220 through AWEC/223
15/ Stipulating Parties' Opening Brief at 6.
16/ Tr. at 71:1-4 (Oct. 12, 2021).

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national best practices."[17/] The Stipulating Parties do not define what it means for a method of depreciation to be "systematic and rational." To the extent, however, that the remaining life technique results in intergenerational inequity and unjust and unreasonable rates, as AWEC asserts it would do here, then it is not rational under these circumstances.

But even if it is "systematic and rational," this says nothing about AWEC's alternative proposal. It is, of course, possible for two different systems to both be "systematic and rational." AWEC has proposed to use excess reserves to buy down the full remaining balance of Colstrip and amortize the remainder over a 10-year period, with a re-evaluation of this amortization rate at the next depreciation study. This is systematic. AWEC has made these proposals to reduce the costs and risks to current customers of PGE's interest in Colstrip and to ensure that past customers receive the benefit of the amortization of excess reserves to which they contributed. This is rational.

In support of their argument, the Stipulating Parties also state "[t]he Federal Energy Regulatory Commission (FERC) Uniform System of Accounts (UofA), the National Association of Regulatory Utility Commissioners (NARUC), the Society of Depreciation professionals and Wolfe and Fitch (the premier authority on utility depreciation studies) all use remaining life basis for adjustments to depreciation rates."[18/] The Stipulating Parties provide no citations to any of these authorities in support of their statement. In fact, the Stipulating Parties' position is directly contradicted by excerpts provided in AWEC's Opening Brief, which include statements from both Wolf and Fitch and NARUC approving short amortization periods of reserve imbalances

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17/ Stipulating Parties' Opening Brief at 3, 6.
18/ Id. at 6.

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when those imbalances are material,[19] as is the case here.

The Stipulating Parties further allege that "AWEC's position departs from national best practices."[20] Again, the Stipulating Parties offer no citation for what constitutes "national best practices." As just noted, depreciation experts disagree with this statement, and as AWEC demonstrated in its Opening Brief, at least 18 states have approved fixed amortizations or transfers of theoretical reserve imbalances.[21]

Finally, the Stipulating Parties invoke cost-causation and intergenerational equity in support of their position but fail to demonstrate how the Stipulation achieves these goals. "It is important to match utilization of assets with the recovery of assets, and this needs to be done fairly from the beginning of that asset's life to the end,"[22] the Stipulating Parties assert. AWEC agrees. That is precisely why AWEC has proposed an accelerated amortization of excess reserves – it better ensures that past customers who overpaid for the use of PGE's assets, based on the current depreciation study, receive the benefits of their overpayments, while simultaneously bringing depreciation rates to their economically efficient level more quickly. "Current customers should also bear the costs they drive on the system—not future customers," the Stipulating Parties further assert. "AWEC's proposal, on the other hand, would shift costs to future customers, and is therefore inequitable."[23] This is a conclusory statement without any analysis or evidence to support it. It is precisely the argument that AWEC predicted the

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19/ See AWEC Opening Brief at 9.
20/ Stipulating Parties' Opening Brief at 3-4.
21/ AWEC Opening Brief at 9-11.
22/ Stipulating Parties' Opening Brief at 6.
23/ Id. at 7.

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Stipulating Parties would make – that higher rates for future customers result in inequitable rates for these customers.[24] But as Dr. Kaufman testifies, and AWEC's Opening Brief shows, accelerated amortization of excess reserves more quickly brings depreciation expense for PGE's assets in alignment with future customers' consumption of those assets.[25] By contrast, if the Stipulation is adopted and the theoretical reserve imbalance is amortized over the life of the plant, it will subsidize future customer rates for years to come. As a result, future customers will not pay a level of depreciation rates that align with their consumption of PGE's assets. The question is not whether future customers will pay higher rates; it is whether the rates future customers pay are in alignment with the cost of the assets they are using – that is, whether future customer rates are equitable. "Where significant reserve surpluses and deficits exist, corrective 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."[26] AWEC's proposal will achieve this goal; the Stipulation will not.

III. CONCLUSION

Given the lack of evidence in support of the Stipulation, PGE has failed to carry its burden of proof to show that "the rate or schedule of rates proposed to be established or increased or changed is fair, just and reasonable."[27] Consequently, the Commission should either reject the Stipulation or modify it to incorporate AWEC's recommendations.

24/ AWEC Opening Brief at 21-23.
25/ Id. at 23; AWEC/100, Kaufman/12:1-3.
26/ AWEC/202 at 9.
27/ ORS 757.210(1)(a).

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Dated this 10th day of November, 2021

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