

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 2152

In the Matter of

PORTLAND GENERAL ELECTRIC
COMPANY,

Detailed Depreciation Study of Electric
Utility Properties.

RULING

**DISPOSITION: MOTION TO SUSPEND GRANTED IN PART; PROCEDURAL
SCHEDULE ADOPTED**

I. INTRODUCTION

On February 22, 2021, the Public Utility Commission of Oregon conducted a prehearing conference in this docket. Representatives appeared on behalf of Commission Staff, Alliance of Western Energy Consumers (AWEC), Oregon Citizens’ Utility Board (CUB), and Portland General Electric Company. On February 25, 2021, I adopted the procedural schedule as proposed by the parties. The procedural schedule included milestones for testimony, an evidentiary hearing, briefing schedule, settlement conferences in June and August 2021, and a requested order date of October 29, 2021.

On May 3, 2021, AWEC filed a motion to compel, which was granted by ruling on June 10, 2021. PGE provided the required materials on June 24, 2021. The parties report that they conducted settlement conferences on June 24 and 28, 2021. On July 6, 2021, Staff filed a motion to suspend the procedural schedule, and indicated that PGE, CUB, and Staff (stipulating parties) had reached a settlement in principle regarding all issues in this docket. In its motion, Staff represented that the stipulating parties would file a stipulation and supporting testimony within thirty days of the granting of the motion and noted that AWEC intended to oppose the settlement. In the July 6, 2021 ruling granting Staff’s motion, I requested that the parties confer regarding the procedural milestones for the remainder of this proceeding and provide a proposed schedule within seven days of the filing of the stipulation. The stipulating parties state that an additional settlement conference was held with AWEC on July 16, 2021, but that the parties were unable to reach a compromise. The stipulating parties filed a stipulation with supporting testimony on July 29, 2021.

On August 4, 2021, AWEC filed a motion to suspend the procedural schedule, which included a proposed procedural schedule. AWEC indicated that the parties had been unable to reach agreement on a procedural schedule. In its motion, AWEC also sought a waiver of OAR 860-001-0350(8), which requires that objections to a stipulation be filed within 15 days of the filing of the stipulation. Under operation of the applicable rules, responses to AWEC's motion were due August 11, 2021 and any objection to the stipulation would be due on August 13, 2021. In an August 5, 2021 ruling, I waived the requirements of OAR 860-001-0350(8) to provide adequate time to address the appropriate process for the remainder of this proceeding, including establishing the deadline for filing an objection to the stipulation. On August 11, 2021, the stipulating parties filed an objection to AWEC's motion and proposed a procedural schedule for the remainder of this proceeding. On August 13, 2021, AWEC filed a motion for leave to reply, as well as its reply to the objection. I find good cause to grant AWEC's motion for leave to reply in order to allow AWEC to clarify its position.

II. AWEC'S MOTION

AWEC contends that further suspension of the procedural schedule is in the public interest because it may result in an uncontested stipulation, which would reduce the administrative burden on the Commission and the parties. AWEC maintains that it currently intends to oppose the stipulation because, among other things, it results in higher rates for AWEC's members than were proposed in PGE's initial filing. AWEC argues that suspending the schedule in this case would provide time to determine whether a settlement of all or some issues in the general rate case (GRC) would eliminate the need for additional process in this docket. AWEC argues that there is a material difference between agreeing to a stipulation that will raise rates for its members relative to the company's initial filing before overall rates are known, and agreeing to that same stipulation once the total impact of the rates from both dockets is known. AWEC asserts that because the depreciation rates approved in this docket would not be implemented until the rate effective date of PGE's current GRC (May 9, 2022), a delay in the procedural schedule will not inconvenience any party.

AWEC states that it is prepared to move forward with its objections to the stipulation, but argues that suspension is in the public interest because there is no reason to conduct further process in this docket if it may become unnecessary. AWEC contends that proceeding with a procedural schedule now risks wasting the Commission's and the parties' resources. AWEC explains that its proposed procedural schedule is intended to align with the schedule established in PGE's GRC. Specifically, AWEC states that its proposed schedule allows for the potential that the November 5, 2021 settlement conference in the GRC docket could result in a settlement that eliminates AWEC's need to object to the stipulation in this docket. AWEC argues that even if that settlement is not

achieved, its schedule provides for nearly four months between the final brief and the implementation date for the revised depreciation rates to address any further process in this docket.

AWEC disputes the stipulating parties' contention that a further suspension of this proceeding would give AWEC an advantage in settlement negotiations in the GRC. AWEC disagrees that there is any leverage to be gained in settlement negotiations in the GRC by threatening to object to the stipulation in this docket. AWEC maintains that if it did attempt to use that tactic, it would expect the stipulating parties to invite AWEC to file its objection in this docket, as they are now doing.

AWEC contends that UE 394 is fundamentally a proceeding to establish an overall revenue requirement for PGE, which includes depreciation rates. AWEC further asserts that because the depreciation rates established in this proceeding factor into the overall revenue requirement that will be established in UE 394, it is logical to align the schedules of the two proceedings. AWEC disputes that suspending the procedural schedule in this proceeding would complicate the record in UE 394 and argues that the stipulating parties have shown no basis for that claim. AWEC asserts that a suspension of this docket would have no effect on the record in UE 394.

AWEC requests that in the event its motion is denied, the procedural schedule established be similar to its proposed schedule, with its objection to the stipulation and supporting testimony due 15 days from the date of the order denying the motion.

III. STIPULATING PARTIES' OPPOSITION

The stipulating parties object to AWEC's motion and contend that it is inappropriate to delay one proceeding to link it to another, unrelated proceeding. The stipulating parties argue that the Commission's authority over utility rate design and rate spread are separate from its authority over depreciation rates, and that depreciation rates and the GRC should remain distinct. The stipulating parties argue that the Commission may only render a decision in a contested case proceeding based upon evidence placed on the record in that proceeding, and that delaying resolution of this docket will not enable the Commission to make a more informed decision. The stipulating parties assert that the public interest is best served through a timely resolution of this proceeding, which is not inappropriately impacted by a separate proceeding.

The stipulating parties also assert that suspension of the procedural schedule in this docket will complicate the record in PGE's GRC and give AWEC an unfair advantage in both dockets. The stipulating parties maintain that depreciation rates are a critical input in the GRC, and that placing this docket on hold would complicate the record in the GRC. The stipulating parties argue that suspending this docket would give AWEC an

unfair advantage in the settlement discussions in the GRC. The stipulating parties assert that it would be prejudicial to the parties in all dockets to allow one party to use their procedural ability to oppose a settlement in one docket in order to obtain a favorable settlement in a different docket. The stipulating parties maintain that the Commission should be wary of the impact that suspending this docket may have on the GRC, rather than considering only the amount of time before PGE implements its depreciation rates.

The stipulating parties represent that PGE, Staff, CUB and AWEC participated in settlement conferences on June 24 and 28, 2021, which resulted in an agreement between the stipulating parties and that PGE provided AWEC with the term sheet on July 1, 2021. They further explain that an additional settlement conference was held with AWEC on July 16, 2021, but the parties were unable to reach a compromise. The stipulating parties assert that the dates contained in their proposed schedule are designed to efficiently resolve this docket so that parties can focus their resources on other proceedings. Specifically, the stipulating parties argue that AWEC's objection to the stipulation should be due no later than August 31, 2021, so that this docket can be concluded. The stipulating parties explain that AWEC has had access to the terms sheet and the timeframe for filing the settlement since early July, and thus has had time to develop its opposition.

IV. RULING

The original procedural schedule in this docket, which was agreed to by all of the parties, contemplated settlement discussions, set deadlines to litigate the matter in the event that settlement was not reached, and contemplated the issuance of a Commission Order by October 29, 2021. At this time, a constrained procedural schedule would be required in order to meet that date, as evidenced by the spacing of certain deadlines in the stipulating parties' proposed schedule. I decline to adopt such a constrained procedural schedule to meet the original target order date absent a compelling reason.

Additionally, I am not persuaded that a limited extension of the schedule in this docket would provide any unfair advantage in the GRC. Even under the stipulating parties' proposed schedule, AWEC would be free to pursue or withdraw its objection in this docket at any time prior to a Commission decision (i.e., October 29, 2021). An extension of the schedule in this docket, however, will provide some opportunity for AWEC to evaluate whether its need to object has been eliminated before the parties and the Commission expend further resources on this docket. I find that the potential administrative efficiencies warrant some extension of the procedural schedule, particularly where there is no demonstration that harm or prejudice will result. Additionally, I note that because the record in each docket will be developed independently, there is no basis to determine that an extension of the schedule in this

proceeding would complicate the record in UE 394. Ultimately, PGE's depreciation rates will be established in this docket, and subsequently implemented in the company's GRC, either during the course of that proceeding or within its compliance filing.

Due to finite Commission and party resources, there is also a need to ensure resolution of this docket within a limited timeframe. In particular, the schedule of this proceeding must account for the time needed for any further process that would be required under all possible scenarios for resolution of this docket prior to the GRC rate effective date, while also ensuring adequate time for the parties and the Commission to shift their focus to the GRC. AWEC's proposed schedule, which includes closing briefs filed January 12, 2022, does not provide adequate time to address these considerations. Accordingly, I adopt the schedule set forth below. This schedule is intended to provide some limited additional time prior to further process in this docket, while also accounting for the parties' workload associated with existing deadlines in UE 394, and allowing for the issuance of a Commission Order in mid-December. To the extent that there are any scheduling conflicts, I request that the parties confer regarding any additional modifications to the procedural schedule and address any proposed changes in the near term.

Event	Date
Objections to Stipulation and Supporting Testimony	September 17, 2020
Stipulating Parties' Reply Testimony	September 29, 2021
Cross-examination statements and exhibits	October 5, 2021
Hearing	October 11 or 12, 2021
Simultaneous Opening Briefs	November 1, 2021
Simultaneous Closing Briefs	November 10, 2021

Dated this 16th day of August, 2021 at Salem, Oregon.



Alison Lackey
Administrative Law Judge