

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UE 442

In the Matter of

PORTLAND GENERAL ELECTRIC  
COMPANY,

Advice No. 24-15 (ADV 1638), New  
Schedule 343 Voluntary Customer  
Information Platform.

ORDER

**DISPOSITION: STAFF’S RECOMMENDATION ADOPTED**

This order memorializes our decision, made and effective at our September 19, 2024 Regular Public Meeting, to adopt Staff’s recommendation in this matter, including Staff’s amendment to condition three as proposed during Staff’s presentation. The Staff Report with the recommendation is attached as Appendix A. Condition three is revised to state:

The Company will notify Staff via a Demand Response Advisory Group (DRAG) meeting at least six months in advance of introducing significant new offerings on PGE+ or a new platform altogether. Staff will review the significant new offering for promotional concession and competitive operations issues, and recommend that the Company make appropriate filings with the Commission if applicable.

Made, entered, and effective           Sep 20 2024          .

**Megan W. Decker**  
Chair

**Letha Tawney**  
Commissioner



**Les Perkins**  
Commissioner

A party may request rehearing or reconsideration of this order under ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-001-0720. A copy of the request must also be served on each party to the proceedings as provided in OAR 860-001-0180(2). A party may appeal this order by filing a petition for review with the Circuit Court for Marion County in compliance with ORS 183.484.

ITEM NO. RA1

**PUBLIC UTILITY COMMISSION OF OREGON  
STAFF REPORT  
PUBLIC MEETING DATE: September 19, 2024**

**REGULAR**  X  **CONSENT**       **EFFECTIVE DATE**  September 20, 2024

**DATE:** September 9, 2024

**TO:** Public Utility Commission

**FROM:** Benedikt Springer

**THROUGH:** Caroline Moore, JP Batmale, and Sarah Hall **SIGNED**

**SUBJECT:** PORTLAND GENERAL ELECTRIC:  
(Docket No. ADV 1638/Advice No. 24-15)  
New Schedule 343, Voluntary Customer Information Platform.

**STAFF RECOMMENDATION:**

Approve PGE Advice No. 24-15 subject to Staff's conditions.

**DISCUSSION:**

Issue

Whether to approve PGE's Advice No. 24-15 subject to Staff's conditions.

Applicable Rule or Law

ORS 757.205 Requires that [e]very public utility shall file with the Public Utility Commission, within a time to be fixed by the commission, schedules which shall be open to public inspection, showing all rates, tolls and charges which it has established and which are in force at the time for any service performed by it within the state, or for any service in connection therewith or performed by any public utility controlled or operated by it.

The Commission may approve tariff changes if they are deemed to be fair, just, and reasonable. ORS 757.210. Tariff revisions may be made by filing revised sheets with the information required under the Commission's administrative rules, including OAR 860-022-0025.

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OAR 860-022-0025(2) specifically requires that each energy utility changing existing tariffs or schedules must include in its filing a statement plainly indicating the increase, decrease, or other change made with the filing, the number of customers affected by the proposed change and the resulting change in annual revenue; and the reasons or grounds relied upon in support of the proposed change.

Rules on sales promotion in OAR 860-026-0000 through OAR 860-026-0045 for electric companies were adopted under the Commission's general powers (ORS 756.040). OAR 860-026-0010 defines promotional activity and OAR 860-026-0015 defines promotional concession. OAR 860-026-0020 contains the standards governing promotional activities and concessions.

ORS 757.646 gives the Commission authority to develop policies "to eliminate barriers to the development of a competitive retail market between electricity service suppliers and electric companies" and instructs the Commission to establish a Code of Conduct "to protect against market abuses and anticompetitive practices." Competitive operations are defined in OAR 860-038-0005(8). Competitive operations are treated differently from regulated services as described in Code of Conduct rules OAR 860-038-0500 through OAR 860-038-0640.

## Analysis

### *Background*

On May 15, 2024, PGE filed a tariff for voluntary on-bill-financing for demand-response-capable devices (currently EV chargers, but future HVAC products planned).<sup>1</sup> After discussion with Staff, PGE withdrew the filing on June 13, 2024. Staff's position was that the underlying platform, PGE+, which allows customers to select devices and have them installed by PGE-approved contractors at standardized prices, needed to be part of a tariff. On June 24, 2024, Staff met with PGE to discuss a companion PGE+ tariff, which PGE subsequently filed on August 2, 2024, as the present Advice Filing.<sup>2</sup> During the time PGE was formulating its tariff filing, the PGE+ website was operational.<sup>3</sup> Along with this filing, PGE also filed Advice No. 24-16, New Schedule 342, PGE Voluntary On-Bill Repayment Service.<sup>4</sup> Staff addresses the approval of this companion filing of a voluntary on-bill repayment service in a separate memo filed at this public meeting under RA2.

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<sup>1</sup> Docket No. ADV 1610, [New Schedule 342 PGE Voluntary On-Bill Repayment Service](#), May 16, 2024.

<sup>2</sup> ADV 1638, [New Schedule 343, Voluntary Customer Information Platform](#), August 2, 2024.

<sup>3</sup> PGE+ was launched on December 20, 2023.

<sup>4</sup> ADV 1639, [New Schedule 342 PGE Voluntary On-Bill Repayment Service](#), August 2, 2024.

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Schedule 343 covers two services provided by PGE through their online platforms, PGE+ and PGE Marketplace. The PGE Marketplace website has been operating since 2021. It offers access to a host of appliances, ranging from smart thermostats to window mounted air conditioners. Staff informed the Company in December 2020 that PGE Marketplace needed to be covered by a tariff, but the Company did not act. Staff intended to follow up, but the issue got lost among competing priorities. With the expanded services through PGE+, Staff has now pushed the Company to introduce a tariff covering these services for reasons outlined in this memo. With more complex offers come needs to ensure sufficient customers protections and to hold the Company accountable to prudent use of ratepayer funds. Furthermore, a tariff creates more certainty that no competitive operations or promotional concession rules are being violated.

#### *Overview of Proposed Services*

New Schedule 343 describes PGE's voluntary customer platforms for residential customers. The tariff outlines the information and services PGE customers may obtain through the platforms. Schedule 343 states this in very general terms, explaining that the platforms provide information about Commission approved rates, programs, as well as pilots and the qualifying equipment or technology needed to participate. The platforms are also designed to facilitate the purchase and the installation of such equipment through PGE's websites. It is Staff's understanding that the tariff currently only covers two specific websites and services, PGE Marketplace<sup>5</sup> and PGE+.<sup>6</sup> Staff expects that the Company will inform Staff if any new websites or services are initiated under Schedule 343.

PGE Marketplace allows customers to purchase various energy-efficient products including light bulbs, power strips, air purifiers, smart thermostats, water fixtures, EV chargers, batteries, and window air conditioners. According to the Company, PGE Marketplace is operated by a third-party vendor. The vendor provides PGE a two percent revenue share, which is used to offset ratepayer costs. For a small subset of products, like smart thermostats, the website gives instant access to Energy Trust of Oregon ("Energy Trust") rebates as well as rebates for enrolling in demand response programs. Only residential customers are allowed to utilize PGE Marketplace.

The newly proposed PGE+ platform facilitates customers seeking to embark on an electrification "journey." The first offering through PGE+ provides customers the ability to purchase PGE-approved Level-2 EV chargers and get them installed through a PGE-approved contractor. This installation may include related upgrades such as electrical panel work. Much like PGE Marketplace, the PGE+ platform seeks to

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<sup>5</sup> PGE's Marketplace Platform, available at <https://pgemarketplace.com/>.

<sup>6</sup> PGE+, available at <https://portlandgeneral.com/save-money/pge-plus>.



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streamline the overall PGE customer experience. In this case, participating customers can receive an automatic, Commission-approved rebate for the EV charger if they sign up for PGE's EV Smart Charging Program (Schedule 8).<sup>7</sup> Through its concurrent filing of Schedule 342, PGE plans to also offer on-bill financing for products and installations obtained through PGE+. Both schedules are only available to residential customers.

The Company communicated its intention to add ducted and ductless heat pumps, as well as central Air Conditioning to its PGE+ platform, offering instant rebates with the collaboration of Energy Trust. According to its cover letter, the Company will communicate with Staff via a Demand Response Advisory Group (DRAG) meeting at least six months in advance of introducing significant new offerings on PGE+. As discussed below, because of competitive operations and promotional concession concerns, Staff believes explicit consent from Staff for the addition of new products is necessary. The Company is currently recovering \$4.9M in base rates for their capital investment in the development of PGE+.

#### *Discussion of Benefits and Risks of the Proposed Services*

In the following, Staff discusses the considerations analyzed to come to a recommendation on the present filing. First, Staff considered the potential of the services to accelerate the adoption of demand response (DR) and energy efficiency (EE) technology among residential customers. Then, Staff analyzed whether PGE's proposed services contain sufficient customer protections. Subsequently, Staff considered whether the platforms covered by Schedule 343 represent a competitive operation and the degree to which it might affect market competition. Lastly, Staff analyzed whether the proposed services must be considered a promotional concession.

##### *I. Potential to Accelerate DR and EE Adoption*

The services and some products the Company offers through the proposed platforms have the potential to accelerate DR program participation and assist in EE adoption. This is the case more so for PGE+ than PGE Marketplace. PGE Marketplace primarily offers increased convenience in purchasing appliances but may have a hard time competing with big box stores or online retailers. The exception is smart thermostats which come with incentives to enroll in a DR program. According to the Company, over 23,000 smart thermostats have been sold since the launch of PGE Marketplace.

PGE+ shows more potential to accelerate DR and EE adoption because it offers an integrated experience that guides customers from product research to installation. The streamlining of larger EE purchases for residential customers tackles many well-known barriers to EE adoption. The services complement several existing transportation

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<sup>7</sup> See Docket No. ADV 1151, [Staff Report](#) for the October 23, 2020, Public Meeting.

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electrification (TE), DR, and EE offerings and simplify enrollment in offerings like Peak Time Rebates and Time of Use rates. Ensuring product quality and price discipline creates certainty for consumers. While Energy Trust offers some comparable services, they do not have an integrated experience such as PGE+. At the same time, it is important to Staff that PGE cooperate closely with Energy Trust to avoid any duplication of services. Taken together, Staff believes it is likely that PGE+ is a beneficial channel to accelerate the adoption of DR/EE technology and streamline enrollment.

To gather additional information on whether the platforms actually accelerate DR and EE adoption, **Staff recommends making it a condition of approving this tariff that the Company report annually to Staff on installation costs, completions, and enrollments in program and services through PGE+ as well PGE Marketplace sales.** Staff suggests this information may be included in the annual Flex Load report.

Generally, the Commission requires DR and EE programs to be cost-effective. However, these costs are not being recovered through a standalone mechanism that allows granular, ongoing monitoring of program performance and cost effectiveness as part of the EE and DR portfolio of offerings. To increase transparency of the costs and benefits of the platforms, **Staff recommends making it a condition of approving this tariff that the Company report annually to Staff total costs of offering the PGE+ and PGE Marketplace including capital and O&M costs.** In the long run, **Staff recommends developing a mechanism for incorporating costs and benefits into the flexible load plan.**

## II. *Customer Protections*

Staff analyzed the proposed tariff with an eye toward sufficient protections for participating customers on the PGE+ platform, and specifically evaluated customer protections related to installation disputes with installers, fair install pricing, and potential for customer confusion. With regard to installation disputes with a PGE-approved contractor, PGE specifically addresses this in special conditions one and two, where the Company commits to assisting customers in resolving any issues. In communications with Staff, the Company explained that as an additional safeguard it does not release funds to contractors until a customer has confirmed successful installation. To ensure reasonable prices, PGE contractors have to operate in a band of prices that ensure applicable rebates actually reduce the final installation price. The Company also explained that it screens all participating customers for eligibility for low-income programs and refers them to Community Action Agencies when relevant.

Staff is also concerned that customer confusion may arise when PGE+ begins to offer services like heat pump installations which are also available through Energy Trust.

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Staff has confirmed that a hypothetical scenario exists where PGE+ may create the false impression that the platform shows an exhaustive list of Energy Trust incentive-eligible heat pumps, while there is actually a broader variety of products available through Energy Trust.<sup>8</sup> In response to Staff questions, the Company has ensured Staff that it is committed to transparency and collaboration with Energy Trust. Collaboration is particularly important because Energy Trust, the main facilitator of EE incentives in Oregon, is a not-for-profit organization financed by ratepayers, overseen by the Commission—not a PGE competitor. In that relationship, the issue is less one of unfair competition, but one of potentially duplicating services and wasting ratepayer funds. Non-duplication with Energy Trust can only be ensured if both entities collaborate closely. In that case, there may be complementarities. Staff has observed so far that both entities are working closely together. Additionally, **Staff recommends as a condition of approving this tariff that PGE clearly present to customers on PGE+ and PGE Marketplace information on similar products that may be acquired with the help of Energy Trust and state that the use of PGE-approved contractors is not a condition for receiving applicable incentives.**

Concerns about duplication are also mitigated by the fact that the tariff is restricted to products and services that are part of Commission approved programs. PGE can only offer incentives, discounts, or rebates on PGE+ that have been vetted by PUC Staff. As an additional safeguard, **Staff recommends that Company must obtain consent from Staff via a Demand Response Advisory Group (DRAG) meeting at least six months in advance of introducing significant new offerings on PGE+ or a new platform altogether.** This will allow Staff to ensure that any new offers are complementary and do not raise any new promotional concession concerns, as discussed below. Staff believes that the Company does not need to obtain Staff consent for product changes on PGE Marketplace since its scope is much more limited.

PGE's facilitation of installation services through PGE+ does have the potential to influence the contractor and installation market. It is important that PGE conduct fair RFPs to acquire PGE-approved contractors. Staff believes that any contractor meeting transparent criteria must be allowed to participate and PGE must distribute leads fairly. After discussion with the Company, Staff is satisfied that current contracting processes follow these guidelines. PGE selects contractors from Energy Trust trade allies. This ensures eligibility for Energy Trust incentives. Additionally, Staff finds PGE's approach of having a price band for installation services balances consumer protection with not having undue market influence on prices.

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<sup>8</sup> With PGE+ only offering those which are eligible for DR program participation.

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### *III. Competitive Operations Considerations*

Staff analyzed the present filings under Direct Access rules in OAR 860-038-0001 through 860-038-0760. By way of background, when Oregon's State legislature partially deregulated the electricity market (see ORS 757.600 to 757.687) it created a hybrid model with competition in some areas but not others. As a result, non-residential customers can choose to purchase electricity through Electricity Service Suppliers ("Direct Access"), while residential customers can only purchase electricity through their regulated monopoly utility (although they can choose portfolio options, solar, EE, etc.). As a result, investor-owned utilities offer "cost-of-service options," which are price-regulated by the PUC, as well as competitive services as part of their competitive operations.

According to OAR 860-038-0005,

- (8) "Competitive operations" means any electric company's activities involving the sale or marketing of electricity services or directly related products in an Oregon retail market. Competitive operations include, but are not limited to, the following:
- (a) Energy efficiency audits and programs;
  - (b) Sales, installation, management, and maintenance of electrical equipment that is used to provide generation, transmission, and distribution related services or enhances the reliability of such services; and
  - (c) Energy management services, including those services related to electricity metering and billing.

Services or products provided by the electric company as part of its electric service to its non-direct access customers within its allocated service territory, or transmission and distribution services to its direct access customers are not competitive operations.

Competitive operations are treated differently under the Code of Conduct (OAR 860-038-0500 through OAR 860-038-0640), which regulates the interaction among the cost-of-service part of the electric company, its affiliates, and its competitive operations. The Code of Conduct prescribes, among other things, that the Company has to account separately for the revenues and costs of the competitive operation as well has restrictions on what kind of information can be shared with the competitive operation (OAR 860-038-0580). The Company also has to make clear to potential customers that they are not required to purchase the service from the company (OAR 860-038-0560, OAR 860-038-0600).

In terms of applying the rules to the platforms, they clearly relate to electricity and energy efficiency services (OAR 860-038-0005(3)(a)) and hence both PGE Marketplace and PGE+ could qualify as competitive operations under OAR 860-038-0500. However,



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“Services or products provided by the electric company as part of its electric service to its non-direct access customers” (OAR 860-038-0005(3)(c)) are specifically excluded from the definition of competitive services. This sentence was added in 2006, when Division 38 rules were last revised, focusing specifically on the definition of competitive operations and the Code of Conduct rules.<sup>9</sup> While residential customers are by definition “non-direct access customers”, the rules are not clear on what products or services are “part of electric service” and which are not.

An interpretation against treating the platforms as a competitive operation is reinforced by language in the Code of Conduct, stating that it “is designed to protect against market abuses and anti-competitive practices by electric companies in the Oregon retail electricity markets” (OAR 860-038-0500). While “retail electricity market” could be seen as simply referring to the opposite of a wholesale market, Staff believes this refers to a competitive retail market, which only exists for commercial and industrial customers, hence exempting services to retail customers from the Code of Conduct.

As a result, Staff believes it is possible to treat Schedule 343 services as a competitive operation. However, because of the ambiguity associated with the retail market, Staff does not recommend treating these platforms as competitive operations at this time. Until clarifications to OAR 860-038-0005 (3) and amendments to OAR 860-038-0500 that expand the Code of Conduct to include residential customers as being part of a retail market are brought before the Commission and adopted, Staff believes the platforms are exempt from these rules. Looking at the statute in ORS 757.646 suggests that the purpose is to “eliminate barriers to the development of a competitive retail market” and to “mitigate the vertical and horizontal market power of incumbent electric companies.” Applying the Code to the platforms could be in line with this intent, should the Commission decide to broaden the scope around the Code of Conduct.

Accordingly, until the Commission decides to expand the definition of competitive operation, Staff believes no action by the Commission is needed at this time. Any risk of platforms accidentally becoming a competitive operation is mitigated by the restriction of the tariff to residential customers. Were the platforms to offer services to commercial and industrial customers, it clearly would have to be treated as a competitive operation. An additional safeguard is the condition, proposed by Staff, that new offerings need to be approved.

#### *IV. Promotional Concessions*

Staff analyzed rules on sales promotion in OAR 860-026-0000 through

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<sup>9</sup> Docket No AR 475, Order No. 06-225, May 8, 2006.

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OAR 860-026-0045 to the existing and proposed Platforms under Schedule 343. The purpose of these administrative rules, which have existed with little change since 1974, is to regulate business practices designed to induce a customer to use a specific utility's service or appliances ("promotional concession") as well as business practices intended to increase the quantity of energy used ("promotional activity").<sup>10</sup> Examples of promotional concessions include providing appliances at no or less cost than value and offering financing for the acquisition of appliances at a rate of interest more favorable than available through other dealers. Activities contained within commission-approved energy efficiency programs are specifically exempt.

The standards applied to promotional activities are very similar to general regulatory principles (OAR 860-026-0020(1)):

All promotional activities and concessions shall be just and reasonable, prudent as a business practice, economically feasible and compensatory, and reasonably beneficial both to the energy or large telecommunications utility and its customers. The cost of promotional activities and concessions must not be so large as to impose an undue burden on the energy or large telecommunications utility's customers in general and must be recoverable through related sales stimulation within a reasonable time.

Additionally, promotional concessions must be offered uniformly and contemporaneously to all persons in a class (2)(a). Promotional concessions cannot create undue preference or advantage to any person or subject any person to any undue prejudice or disadvantage (2)(b). Promotional concessions can also not establish unreasonable differences between localities or customer classes (2)(c) or create restrictions on the form of energy used in a housing structure (2)(d). In any case, utilities must file any proposed promotional concession subject to Commission suspension or cancellation (OAR 860-026-0025).

Under OAR 860-026-0015(3)(f) promotional concessions explicitly exclude "rebates, low interest loans, and other considerations for Commission-approved energy efficiency programs." Since PGE+ only relates to Commission-approved EE and DR programs, one could reasonably argue that it is categorically excluded from promotional concession rules.

Reviewing other Companies' filings point into a different direction. In 2015, Avista filed as promotional concession an HVAC filter replacement program.<sup>11</sup> Under the program

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<sup>10</sup> Docket No. AR 253, Order No. 92-1793, December 22, 1992.

<sup>11</sup> RG 73, [In the Matter of Avista's Promotional Concession Campaign](#), July 1, 2015.

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customers can opt-in to (1) receiving an e-mail reminder from Avista to replace their filter, (2) receiving an e-mail reminder with discount codes for filter purchases, and (3) subscribing to regular delivery of new filters from a vendor. In its filing, Avista argued that this needed to be treated as a promotional concession since this was not part of a Commission-approved Energy Efficiency program, although the purpose of the program was reduced energy usage. Northwest Natural has filed with the Commission as promotional concession several programs that have some similar features with services through the PGE+ platform, for example, on-bill financing and rebates for gas appliances (Schedule 200).<sup>12</sup> Both of these examples undermine the position that the platforms should be excluded from the definition of promotional concession. At the same time, neither of the examples included a determination by the Commission.

PGE Marketplace offers products that are not part of EE programs. If PGE were to offer some of those products at less cost than value, they would become promotional concessions and Staff would expect the Company to file it as such. Furthermore, it is plausible to expect that future product additions may raise issues related to promotional concessions. For instance, if PGE were to offer heat pumps or heat pump water heaters to users of gas-powered appliances, it would likely be considered a promotional concession, requiring an appropriate promotional concession filing. For this reason, **Staff recommends that the Company must obtain consent from Staff via a Demand Response Advisory Group (DRAG) meeting at least six months in advance of introducing significant new offerings on PGE+ or a new platform altogether.** This will allow Staff to analyze promotional concession concerns of new products or services. Staff believes that with the proposed safeguards, the Commission can approve PGE's filing without making a determination as to whether promotional concessions are present.

Additionally, Staff will explore whether promotional concession rules need to be brought into synch with current goals of utility regulations. When they were adopted in the 1970's, issues like demand response programs, decarbonization, or electrification were not considered. Staff welcomes any comments from stakeholder on this.

### Conclusion

To be in the public interest, a utility service needs to balance benefits and risks. Staff believes that the present filing has the potential to substantially contribute to the adoption of EE and DR by PGE customers, which is an important goal. Staff discussed several risks but ultimately believes those can be sufficiently mitigated, especially as long as the offerings remains restricted to residential customers. Hence, Staff recommends the Commission approve the present filing under the following conditions:

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<sup>12</sup> RG 31, [NW Natural's 2023 Report of Promotional Concession Campaigns](#), May 1, 2024.

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1. The Company report annually to Staff installation costs, completions, and enrollments in program and services through PGE+ as well as PGE Marketplace sales. The Company report annually to Staff total costs of offering the PGE+ and PGE Marketplace platforms, including capital and O&M costs. In the long run, develop a mechanism for incorporating costs and benefits into the flexible load plan.
2. The Company transparently present to customers on PGE+ and PGE Marketplace similar EE/DR products that may be acquired with the help of Energy Trust and state that use of PGE-approved contractors is not a condition for receiving applicable incentives.
3. The Company obtain consent from Staff via a Demand Response Advisory Group (DRAG) meeting at least six months in advance of introducing significant new offerings on PGE+ or a new platform altogether.

**PROPOSED COMMISSION MOTION:**

Approve PGE Advice No. 14-15 subject to Staff's conditions.

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