ORDER NO. 25-091

ENTERED Mar 6, 2025

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UE 430

In the Matter of PORTLAND GENERAL ELECTRIC COMPANY, Investigation into New Load Connection Costs.	ORDER

DISPOSITION: STAFF'S RECOMMENDATION ADOPTED

This order memorializes our decision, made and effective at our March 4, 2025 Regular Public Meeting. The Staff Report is attached as Appendix A.

We suspend Advice No. 24-38, revising Rule C – Conditions Governing Consumer Attachments to Facilities and Rule I – Line Extensions, for investigation and hearing. Advice No. 24-38 filed by Portland General Electric Company is suspended for a period of time not to exceed nine months from March 5, 2024, the effective date of the tariff sheets.[1]

PGE may submit a revised tariff, subject to the condition the tariff specify that for any Customer Service Contracts signed after the tariff effective date, all contract terms would be subject to change, pending the outcome of our investigation in this docket and the investigation addressed below. Such a tariff filing shall also include the modifications incorporated in the company's February 21, 2025 advice filing.

We will initiate contested case process(es) to ensure that the scope of issues that have been raised during this proceeding are appropriately examined. We direct the Administrative Hearings Division to open a docket and establish a procedural schedule to

[1] *See* ORS 757.215(1).

investigate the following non-exclusive scope: further modifications to Rule C and Rule I, and PGE's marginal cost study's treatment of transmission costs for large customers.

Made, entered, and effective Mar 06 2025.

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. RA3

PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: March 4, 2025

REGULAR X **CONSENT** ____ **EFFECTIVE DATE** **March 5, 2025**

DATE: February 26, 2025

TO: Public Utility Commission

FROM: Bret Stevens

THROUGH: Caroline Moore, Scott Gibbens, and Michelle Scala **SIGNED**

SUBJECT: PORTLAND GENERAL ELECTRIC:
(Docket No. UE 430/Advice No. 24-38)
Investigation into New Load Connection Costs.

STAFF RECOMMENDATION:

Staff recommends that the Public Utility Commission of Oregon (Commission) open and conclude an investigation into Advice No. 24-38 revising Rule C – Conditions Governing Consumer Attachments to Facilities and Rule I – Line Extensions, on and after March 5, 2025, and approve the Advice Filing, with less than statutory notice, subject to the condition PGE file a modified tariff specifying that for any Customer Service Contracts signed after the rate effective date the following terms will be subject to change, pending the outcome of an investigation into same:

(a) Rule I, Section 5(H) Minimum Transmission Demand
- Threshold percent
- Timing for applicability

(b) Rule I, Section 5(G) Capacity Exceedance Penalty
- Amount
- Buffer

(c) Rule I, Section 5(E), Exit Fee
- Calculation

Staff also recommends that the Commission initiate a contested case process and establish a procedural schedule to investigate the following scope:

- Further modifications to Rule C and Rule I, and
- PGE's marginal cost study's treatment of transmission costs for large customers.

DISCUSSION:

Issue

Whether the Commission should approve PGE's changes to Rule C – Conditions Governing Consumer Attachments to Facilities and Rule I – Line Extensions in Advice No. 24-38/UE 430, Investigation into New Load Connection Costs.

Applicable Law

ORS 757.205 requires public utilities file to all rates, rules, and charges with the Commission. The Commission may approve tariff changes if they are deemed to be fair, just, and reasonable under 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. 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.

ORS 757.210 (1)(a) provides:

> Whenever any public utility files with the Public Utility Commission any rate or schedule of rates stating or establishing a new rate or schedule of rates or increasing an existing rate or schedule of rates, the commission may, either upon written complaint or upon the commission's own initiative, after reasonable notice, conduct a hearing to determine whether the rate or schedule is fair, just and reasonable. The commission shall conduct the hearing upon written complaint filed by the utility, its customer or customers, or any other proper party within 60 days of the utility's filing; provided that no hearing need be held if the particular rate change is the result of an automatic adjustment clause. At the hearing the utility shall bear the burden of showing that the rate or schedule of rates proposed to be established or increased or changed is fair, just and reasonable. The commission may not authorize a rate or schedule of rates that is not fair, just and reasonable.

ORS 757.215 provides:

> (1) The Public Utility Commission may, pending such investigation and determination, order the suspension of the rate or schedule of rates for a

period of up to nine months beyond the time when such rate or schedule would otherwise go into effect.

(2) This section does not prevent the commission and the utility from entering into a written stipulation at any time extending any period of suspension.

(3) After full hearing, whether completed before or after such rate or schedule has gone into effect, the commission may make such order in reference thereto as would be proper in a proceeding initiated after such rate or schedule has become effective.

(4) If the commission is required to or determines to conduct a hearing on a rate or schedule of rates filed pursuant to ORS 757.210, but does not order a suspension thereof, any increased revenue collected by the utility as a result of such rate or rate schedule becoming effective shall be received subject to being refunded. If the rate or rate schedule thereafter approved by the commission is for a lesser increase or for no increase, the utility shall refund the amount of revenues received that exceeds the amount approved as nearly as possible to the customers from whom such excess revenues were collected, by a credit against future bills or otherwise, in such manner as the commission orders.

(5) The commission may in a suspension order authorize an interim rate or rate schedule under which the utility's revenues will be increased by an amount deemed reasonable by the commission, not exceeding the amount requested by the utility. Any such interim increase for a public utility as defined in ORS 757.005 that produces, transmits, delivers or furnishes heat, light or power shall be effected by rates designed to increase the utility's revenues without materially changing the revenue relationships among customer classes or between the revenues derived from demand charges and from energy charges. An interim rate or rate schedule shall remain in effect until terminated by the commission. Upon completion of the hearing and decision, the commission shall order the utility to refund that portion of the increase in the interim rate or schedule that the commission finds is not justified. Any refund of an interim increase under this subsection shall be based upon an analysis of the utility's earnings for a period reasonably representative of the period during which the interim increase was in effect. Refunds shall be made as nearly as possible to the customers against whom the interim rates were charged, by credits against future bills or in such other manner as the commission orders.

(6) Refunds ordered by the commission under subsection (4) or (5) of this section shall include interest on the amount determined to be subject to refund from the date such interim rate or rate schedules took effect.

Analysis

Background
On October 30, 2023, the Commission adopted certain stipulations regarding PGE's request for a general rate revisions and an update to PGE's 2024 annual power costs in Order No. 23-386.[1] Under the fourth partial stipulation, the parties agreed to open an investigation to address new load connection costs.[2] This agreement followed Staff testimony regarding the cost recovery of certain transmission projects located in areas where new large load was being connected.[3,4] The Commission adopted the fourth partial stipulation and directed the Administrative Hearings Division (AHD) to open a docket and set a schedule.[5] The Commission further stated that they "wish to consider whether to adopt an interim measure to mitigate customer risk during the pendency of the investigation, and therefore, PGE should be prepared to file a proposal for an interim tariff in this new docket by December 28, 2023."[6]

On December 1, 2023, Chief ALJ Moser issued a memorandum opening Docket No. UE 430 and indicating that the proceeding will initially be conducted as a non-contested case but may transition to a contested matter at a later date.[7] On December 19, 2023, Staff and PGE filed a letter proposing a preliminary schedule that would move the filing date for PGE's proposal to March 31, 2024, with final party comment submissions due by June 30, 2024.[8] However, PGE subsequently filed three additional extensions. The first of these extensions was filed on March, 29, 2024, and extended the deadline for filing until May, 1, 2024.[9] PGE filed its second extension on

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[1] *In the Matter of Portland General Electric Company, Request for a General Rate Revision; and 2024 Annual Power Cost Update, Docket No. UE 416, Order No. 23-386 (October 30, 2023).*
[2] *Id.* at 14.
[3] Docket No. UE 416, Staff/2000, Stevens/38-39.
[4] Docket No. UE 416, Staff/4100, Bolton-Stevens/1-6.
[5] *In the Matter of Portland General Electric Company, Request for a General Rate Revision; and 2024 Annual Power Cost Update, Docket No. UE 416, Order No. 23-386 (October 30, 2023), at 14.*
[6] *Id.*
[7] Docket No. UE 430, Memorandum Opening Docket and Notice of Scheduling of Status Conference, December 1, 2023, accessed at: https://edocs.puc.state.or.us/efdocs/HDA/ue430hda84730.pdf.
[8] Docket No. UE 430, Staff's Letter in Response to ALJ Conference Memorandum, December 19, 2023, accessed at: https://edocs.puc.state.or.us/efdocs/HAC/ue430hac325667023.pdf.
[9] Docket No. UE 430, Company's Motion for Extension of Time, March 29, 2024, accessed at: https://edocs.puc.state.or.us/efdocs/HAO/ue430hao327637054.pdf.

April, 30, 2024, and extended the deadline for filing to October, 31, 2024.[10] In this extension, PGE agreed to the following terms:[11]

- PGE will provide Commission Staff and parties with a description of the scope of work for any outside consultant PGE engages in connection with this docket;

- Underlying data and assumptions used by any consultant engaged by PGE in this docket will be made available in this docket upon receipt of an appropriate data request subject to any applicable standard or modified protective order;

- PGE will participate in a UE 430 workshop that addresses the following topics:
  - Cost of Service Assumptions,
  - Reliability Requirements,
  - Assumption of Revenues,
  - Facility Cost Assumptions, and
  - Impact to the Bulk Electric System.

- While PGE does not anticipate resource/power provisioning will be part PGE's proposal in the docket, it is willing to discuss Commission Staff's views on this topic at the workshop to the extent it is applicable.

PGE filed its third, and final, extension on October 23, 2024.[12] The Oregon Citizens' Utility Board (CUB) filed a response in opposition and motion to establish a procedural schedule on October 25, 2024.[13] On October 30, 2024, Judge Katharine Mapes filed a motion granting PGE's request for an extension and granted CUB's request for a procedural schedule in part – allowing discovery to begin November 15, 2024.[14] PGE filed its proposal on December 20, 2024.[15] PGE also published two Supplemental Filings on February 14, 2025 and February 21, 2025, respectively. The First Supplemental Filing extended the rate effective date from February 19, 2025 to

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[10] Docket No. UE 430, Company's Motion for Extension of Time, April 30, 2024, accessed at: https://edocs.puc.state.or.us/efdocs/HAO/ue430hao328238117.pdf.
[11] *Id.*
[12] Docket No. UE 430, Company's Motion for Extension of Time, October 23, 2024, accessed at: https://edocs.puc.state.or.us/efdocs/HAO/ue430hao332313025.pdf.
[13] Docket No. UE 430, Oregon Citizen's Utility Board Response to PGE's Fourth Request for Extension & Motion to Establish Procedural Schedule, October 25, 2024, accessed at: https://edocs.puc.state.or.us/efdocs/HAC/ue430hac332424033.pdf
[14] Docket No. UE 430, Motion for Extension of Time Granted; Motion to Establish a Procedural Schedule Granted in Part and Denied in Part, October 30, 2024, accessed at: https://edocs.puc.state.or.us/efdocs/HDA/ue430hda332599025.pdf
[15] Docket No. UE 430, PGE's Direct Testimony and Exhibits, December 20, 2024, accessed at: https://edocs.puc.state.or.us/efdocs/HTB/ue430htb333702025.pdf

March 5, 2025, and committed PGE to publish an additional filing addressing Staff concerns. PGE's Second Supplemental Filing amended tariff language to clarify certain issues raised by Staff.

The remainder of this Staff Report summarizes PGE's proposal, outlines key modifications proposed by UE 430 participants, and identifies several options for the Commission to establish important protections on a timely basis while recognizing the need for key improvements.

Attachment 1 also includes a detailed summary of the large customer protections that the Commission has adopted for PacifiCorp.

PGE Proposal
PGE's proposal introduces several new policies intended to mitigate stranded asset and excess demand risks associated with new, very large customers. The proposal also addresses some cost allocation issues, mainly for distribution costs. A summary of the primary proposals is given below.

- *Capacity Categories* – PGE is proposing to separate new large load requests into three categories based on requested capacity.
    - Category 1 is all customers requesting capacity of less than 1 MW.
    - Category 2 is all customers requesting capacity between 1 MW and 30 MW. This category is further divided into two subcategories. Category 2A is all customers who do not require substation transformer upgrades and whose total Line Extension Costs are estimated to be less than $1 million. Category 2B customers are customers who require substation transformer upgrades or whose total Line Extension Costs are estimated to be more than $1 million.
    - Category 3 customers are all customers requesting capacity greater than 30 MW.

- *Customer Contracts* - PGE is proposing that Category 2B customers must sign a Minimum Load Agreement (MLA), whereas Category 3 customers must sign a Large Load Customer Agreement (LLCA). Customers who sign an MLA will be subject to a minimum billing distribution demand, exit fee, capacity exceedance penalty, and credit requirements. Customers who sign an LLCA will be subject to a flat billing distribution demand, exit fee, system capacity allocation deposit, capacity exceedance penalty, minimum transmission demand, and credit requirements.

- *Credit Requirements* – PGE is proposing that if a customer does not meet the Company's credit requirements or does not provide a parental guarantee from a parent company meeting PGE's credit requirements, then the customer must provide a deposit in the form of a letter of credit.

- *Minimum Transmission Demand* – PGE is proposing that LLCAs will require customers to meet or pay a minimum of 80 percent of allocated System Capacity, even if their actual demand is lower.

- *Capacity Exceedance Penalty* – PGE is proposing that customers with an Allocated System Capacity of 12 MW or greater be subject to a Capacity Exceedance Penalty. The penalty applies if the customer's actual demand exceeds its Allocated System Capacity by 5 MW or 10 percent, whichever is smaller. The penalty is set at four times the transmission rate times the actual demand in excess of the buffer. In PGE's initial filing, the Capacity Exceedance Penalty only applied to customers within an Enhanced Planning Area. This provision was removed in PGE's Second Supplemental Filing published on February 21, 2025.

- *Billing Distribution Demand* – PGE is proposing that LLCAs will require customers to have a flat distribution billing demand which recovers the Company's annualized revenue requirement associated with the cost of the distribution assets attributable to the customer. MLAs will require a Billed Demand that is set to no less than 75 percent of a customer's distribution capacity after a 5-year ramping period.

- *Exit Fee* – PGE is proposing that when a customer leaves the system, they will be required to pay an exit fee. LLCAs will calculate the exit fee as the sum of the net book value of distribution assets attributable to the customer calculated as of the date that is three (3) years after the date of termination or expiration of the LLCA, three years of billed distribution charges at the then current tariff rates for distribution, and any additional costs reasonably incurred or owing by the Company in connection with winding up the construction work. MLAs will calculate the exit fee as the sum of the net book value of distribution assets attributable to the customer as of the date of termination or expiration of the MLA and any additional costs reasonably incurred or owing by the Company in connection with winding up the construction work.

- *System Capacity Reallocation* – PGE is proposing that a customer's allocated system capacity be determined on a three-year rolling basis. At the end of each allocation period, the allocation will auto-renew at its previous level unless PGE has reduced the customer's allocated system capacity due to failure to meet the Minimum Transmission Demand at least three times in the immediate preceding allocation period, the customer fails to meet the requirements of its Flexible Load Plan, or the customer requests a reduction. Reallocation will only occur if PGE is able to reallocate the allocated system capacity to another willing customer that is electrically connected to the customer requesting reallocation. Studies regarding reallocation will be provided to OPUC Staff.

Summary of Workshops and Comments
Staff hosted four workshops over the course of this case. One was held prior to PGE's proposed tariff being published, while the other three were held after. On Nov 12, 2024, Staff held a workshop in which PGE and London Economics International presented a preview of its draft tariff proposal. This allowed Staff and Intervenors to provide feedback on the draft ahead of its publication.

On January 27, 2025, Staff held a workshop primarily intended to allow Staff and Intervenors to provide comment on PGE's Advice Filing. In this workshop Staff discussed five proposed amendments to PGE's filing and proposed a subsequent investigation or series of contested cases to address issues regarding large load customers not addressed by PGE's proposal. On January 28, 2025, Staff published its recommended modifications. Those recommendations were as follows:

(1) Set the Minimum Transmission Demand at 90 percent of a customer's Allocated System Capacity. The Minimum Transmission Demand is meant to hold large customers accountable for their requested System Capacity Allocation. This accountability is critical, as the potential transmission investments needed to serve these customers could make up a large portion their incremental costs. Overestimating the Company's ability to recover the costs of incremental transmission assets from new large customers could lead to non-trivial cross-subsidization on both an intra- and inter-class level. Further, the 90 percent threshold is generally consistent with the Commission's treatment of PacifiCorp in UE 433.

(2) Make the System Capacity Allocation Deposit subject to return, after adjustment for inflation, to customers at the end of their contract period. PGE's proposal returns this deposit at the end of Year 2 and Year 3 of a customer's contract period. In PGE's proposal, the System Capacity Allocation Deposit gives some protection against customers connecting to the system and immediately disconnecting. Staff views this scenario as an edge case. Instead, if the System Capacity Allocation Deposit were to be refunded at the end of the contract period, it would further incentivize customers to remain on the system for the

entirety of their contract. Further, by moving the refund of the deposit to the end of the contract period, it would effectively provide two years of transmission revenue to bridge the revenue gap caused by the customer leaving the system before their first contract ends. This would limit the amount of cost shifting to other customers and provide a runway for a new customer to utilize the assets left behind by the vacating customer.

(3) Exceedance Penalty.

(a) Make customers outside of Enhanced Planning Areas subject to the Exceedance Penalty. Staff understands the reasoning behind PGE's proposal to exclude customers outside of the Enhanced Planning Areas is to not penalize customers who are in areas with ample transmission capacity. However, the Exceedance Penalty provides an important incentive for a customer to accurately request a System Allocation that reflects their actual need. Without this incentive, customers may be able to request a smaller system allocation than they need, artificially decreasing their Minimum Transmission Demand.

Although Staff currently has concerns with the lack of clarity or Commission oversight about how an Enhanced Planning Area is defined, Staff does recognize that customers outside of Enhanced Planning Areas theoretically impose less costs to the system compared to customers within an Enhanced Planning Area. As such, Staff is proposing that a tiered Exceedance Penalty be implemented. Staff is proposing no change to the Exceedance Penalty for customers in Enhanced Planning Areas. However, Staff is recommending the Exceedance Penalty for customers outside of Enhanced Planning Areas be half of the Exceedance Penalty paid by customers inside of an Enhanced Planning Area.

(b) Make designation of Enhanced Planning Areas subject to Commission review and approval. The definition of these areas affects the rates customers are charged, via the Exceedance Penalty, and thus should have Commission oversight.

(4) Refine the language regarding the capacity reallocation process. In the proposed tariff, customers would be allowed or made to reduce their System Capacity Allocation if and only if another customer is able to accept the allocation and cost responsibilities. However, Staff finds the language around this reallocation to be vague in PGE's proposed tariff. Importantly, it does not outline which customers would be eligible to accept reallocated load. It is Staff's understanding through

conversations in the workshop held on January 27, 2025, that only customers within the same Enhanced Planning Area or who are otherwise electrically connected would be eligible to accept reallocated load. Staff would like to see the tariff language outline these conditions so that the process is clear to customers.

(5) Allow customers to voluntarily contribute upfront to the construction costs of their distribution and substation transformer assets. This would allow customers who are able to front these costs the ability to lower capital burden on the utility and to reduce their long-term costs in a way that is equitable to the rest of the system. Further, it reduces the risk of stranded assets in the wake of an unexpected bankruptcy. As this would be a voluntary option for customers, Staff sees this only as a benefit to potential customers.

On February 3, 2025, Staff held a workshop to discuss potential areas of consensus regarding modifications to PGE's tariff and subsequent process. This pursuit came from conversations both in the first workshop and in email exchanges between parties afterwards. Further, PGE had signaled an unwillingness to accept Staff's changes, however stated that it was open to discussing them in a subsequent proceeding. Staff published a summary of this workshop on February 7, 2025. In this workshop, parties agreed to the following:

(1) PGE would delay the rate effective date of PGE's proposed tariff to March 5, 2025, to allow more time to discuss proposed modifications.

(2) Parties would indicate via electronic communication whether they are open to recommending the Commission accept PGE's tariff without modifications, subject to PGE's agreement to include language in any contract executed under the tariff specifying that certain terms are subject to change pending the outcome of Commission proceedings. If so, Parties would identify which terms in contracts to be signed by customers may be subject to change in accordance with the outcomes of subsequent Commission proceedings.

(3) PGE agreed to attempt to refine its tariff language regarding the capacity reallocation process as discussed in Staff's January 28, 2025, comments.

Workshop participants identified a concern with this approach. If the Commission were to put PGE's proposal in place on an interim basis to allow more time for investigation of proposed modifications, customers who sign contracts after PGE's proposed tariff go into effect, but before the subsequent process is completed, either need to have portions of their contract be subject to change or be treated differently than customers that sign agreements after the completion of the subsequent process. Some participants were concerned that leaving the entirety of the contract subject to change instills too much uncertainty in the terms of service and will deter customers from joining PGE's system. Some participants voiced greater comfort with PGE including language in the contracts that would make certain targeted terms of these customers' contracts subject to change pending the outcome of Commission proceedings, while allowing other terms to be unaffected by the subsequent process. As discussed above, Parties agreed to indicate whether they were willing to support this route and which provisions they strongly felt needed to be subject to change.[16]

On February 14, 2025, Staff held its final workshop. The goal of this workshop was to create a package of terms on which parties could reach consensus to move forward. Prior to the workshop, Parties submitted their own desired terms, and an amalgamation of terms was constructed during the workshop. The final set of terms Parties were to react to is given below:[17]

(1) A contested case will be opened either in UE 430 or a subsequent docket that will begin within two months of the rate effective date of PGE's proposed tariff in UE 430.
   (a) This investigation will explore transmission allocation issues for large customers and any proposed changes to PGE's proposed tariff in UE 430.
   (b) This case will take no longer than 9 months.

(2) Upon the end of the contested case discussed in item (1) a second contested case will be opened.
   (a) This investigation will explore generation allocation and HB 2021 compliance issues for large customers.
   (b) This case will take no longer than 9 months.

(3) For customers that sign contracts between the rate effective date of the tariff in this case and the conclusion of the investigation discussed in item (1), the following terms will be subject to change, pending the outcome of the investigation discussed in item (1):
   (a) Rule I, Section 5(H) Minimum Transmission Demand
      - Threshold percent
   (b) Rule I, Section 5(G) Capacity Exceedance Penalty
      - Amount
      - Buffer
   (c) Rule I, Section 5(E), Exit Fee

[16] Docket No. UE 430, Staff Comments, February 7, 2025, accessed at: https://edocs.puc.state.or.us/efdocs/HAC/ue430hac334734025.pdf.
[17] These terms are those referenced in intervenor comments filed on February 21, 2025.

- Calculation

(4) PGE will agree not to file any deferrals related to the Load Following Credit before the conclusion of the investigation outlined in item (2).

(5) Initially, the Enhanced Planning Area will be defined as the entire service territory. A more concrete definition of Enhanced Planning Areas (EPA) and the process for changing them will be addressed in the investigation outlined in item (1). Upon the establishment of these terms, PGE will file to change the boundaries of the EPAs to be in line with these definitions.

(6) Discovery from UE 430 will be transferred to the investigations outlined in items (1) and (2). Similarly, any protections in these data will be transferred as well.

(7) PGE will ensure that this agreement will not preclude parties from proposing any mechanism which would impose a broader definition of “Allocated Capacity”. Particularly one that includes generation and storage required to serve a customer.
    (a) PGE will send out a message to parties trying to address item (7) as soon as practicable.

On February 19, 2025, Staff sent an e-mail to parties notifying them Staff supported a modified list of conditions, removing items (4) relating to deferrals and (7) relating to allocated capacity.

Multiple Parties submitted comments in this case on February 19, 2025. The Citizens' Utility Board's (CUB) comments primarily revolve around the Load Following Credit and the definition of “allocated system capacity” and the minimum transmission demand. CUB discusses how in PGE's most recent rate case, UE 435, the Commission retained the Load Following Credit – which currently only applies to one customer. CUB's concern is that the expansion of this credit to other large customer could greatly increase the size of the credit, which is paid for by other customers.[18] Second, CUB discusses its preference for a more expansive definition of “allocated system capacity”. They note that in UE 433, the Capacity Reservation Charge is meant to recover costs both for transmission and fixed generation costs. In PGE's proposal, the allocated system capacity is not used for recovery of generation costs – only transmission. CUB notes that this issue was raised to Staff and other stakeholders in the February 14, 2024, workshop, but Staff agreed to recommend a package of terms that did not include a reopener clause for this item.

[18] Docket No. UE 430, CUB Comments, February 19, 2025, accessed at: https://edocs.puc.state.or.us/efdocs/HAC/ue430hac335011026.pdf.

The Green Energy Institute (GEI) expressed uncertainty with how to move forward with this docket from a procedural perspective. GEI expressed a conflict in not delaying any subsequent investigations, but also not wanting to accept a tariff which offers less protections due to the utility's desire to serve new very large customers without restrictions. Ultimately, GEI has four recommendations. First, the Commission adopt PGE's proposed tariff with the five modifications presented in Staff's comments published on January 28, 2025, and Staff's proposal to declare PGE's entire service territory as an EPA.[19] Second, GEI recommends removing the buffer from the capacity exceedance penalty.[20] Third, GEI recommends that the Commission accept a term of the agreement between Staff, PGE, and AWEC which would insert reopeners into contracts signed before a subsequent contested case is finished for certain contract terms. Lastly, GEI recommends that a contested case be opened regarding transmission cost allocations for large loads within approximately two months, with a second contested case on generation cost allocation and HB 2021 issues to open upon the conclusion of the first contested case.[21]

The Data Center Coalition's (DCC) comments primarily argue that PGE's tariff provides a reasonable starting point to address these issues, but a closer review of PGE's tariff is necessary for a fair outcome. DCC expressed concern about multiple issues in the tariff including load banking, new requirements on existing contracted customers, the system capacity allocation process, the lack of a load ramp for category 3 customers, the exit fee, and credit requirements. Ultimately, the DCC has three primary recommendations. First, that PGE's 80 percent minimum transmission demand be adopted, but it should be limited to a 12-year period. Second, the Commission should clarify that all aspects of PGE's interim tariff are subject to modification following a subsequent process. Further, the Commission should affirm that the modified terms will only apply to customers signing contracts *after* the subsequent process is complete. Lastly, the DCC recommends that customers who sign contracts before the subsequent investigation is complete, will not be required to modify those contracts following the conclusion of the investigation.

PGE filed comments supporting Staff's recommendation to approve the amended tariff filed on February 21, 2025, subject to the five conditions. PGE states that if the Commission chooses not to adopt this recommendation, PGE will ask for interim approval of proposed changes to the facilities studies and connection queue and for the

[19] Staff would note that PGE published a supplemental filing on February 21, 2025, removing the EPA requirement from the capacity exceedance penalty language, thus assuaging Staff's primary concern.
[20] This proposal is similar to the Commission's decision in Order No. 24-447. A summary of the outcomes related to Order No. 24-447 and large load, can be found in Attachment 1.
[21] Docket No. UE 430, GEI's Comments, February 19, 2025, accessed at: https://edocs.puc.state.or.us/efdocs/HAC/ue430hac335000026.pdf.

suspension of the remainder of the changes pending the investigation of the tariff as requested in PGE's provisional request for hearing.[22]

With respect to the substantive issues parties raised in workshops or comments including a customer option for contributions in aid of construction (CIAC), the minimum transmission demand threshold refund timing of the system capacity deposit, and the application of the exceedance penalty, PGE reaffirmed its positions on these items but expressed an openness for discussion in a subsequent process.

AWEC did not file comments before the deadline to be included in Staff's memo. However, AWEC was an active participant in Staff led workshops and email correspondence between parties outside of workshops. AWEC expressed that they would be willing to support PGE's tariff as filed, if the conditions Staff lays out in its recommendation are met. However, prior to these terms being developed, AWEC offered its own proposed amendments through email correspondence to Parties. First, AWEC proposed reducing the minimum transmission demand to 70 percent from PGE's proposed 80 percent. Second, AWEC proposed Including a limited exception to the minimum demand requirement for facilities that must curtail operations for maintenance. They suggested that this could be accomplished either through a notice mechanism or by applying the minimum demand requirement to a certain number of months out of the year. Third, AWEC proposed that the exceedance penalty be modified so that it reflects the cost of exceeding Reserved Capacity under the OATT. AWEC also expressed concern over whether the minimum transmission demand charge should apply to Schedule 75 – Partial Requirements Service customers.

Staff Analysis
Staff's analysis is broken into three parts. First, Staff will expand on its January 28, 2025, comments and discuss the need for subsequent investigations. Second, Staff will respond to parties' comments. Lastly, Staff will expand on its primary recommendation and review the full set of the Commission's options in this case.

Staff Comments
As noted above, Staff published comments on January 28, 2025, outlining the following amendments to PGE's proposed tariff.

(1) Set the Minimum Transmission Demand at 90 percent of a customer's Allocated System Capacity.

[22] PGE submitted a "provisional" complaint for hearing on February 18, 2025, which is within 60 days of the time PGE filed the original tariff.

(2) Make the System Capacity Allocation Deposit subject to return, after adjustment for inflation, to customers at the end of their contract period.

(3) Make customers outside of Enhanced Planning Areas subject to the Exceedance Penalty and make designation of Enhanced Planning Area subject to Commission review.

(4) Refine the language regarding the capacity reallocation process.

(5) Allow customers to voluntarily contribute upfront to the construction costs of their distribution and substation transformer assets.

The modifications in PGE's February 21, 2025, supplemental filing largely address proposals (3) and (4). PGE removed the EPA condition from the capacity exceedance penalty definition and refined the conditions around which capacity can be reallocated.

Staff continues to support proposals (1), (2), and (5). And Staff is still interested in exploring a differential capacity exceedance penalty for customers inside and outside of capacity constrained areas. However, given concerns raised by UE 430 participants, Staff believes it is possible to address these issues in a separate investigation that incorporates issues related to allocation of costs of transmission investments for new large load, rather than litigating these issues in UE 430.

Staff supports the creation of two separate contested cases subsequent to this docket to address further large load issues. Staff proposes that the first case cover unresolved issues and proposals from UE 430 and transmission allocation issues related to large loads. The second, subsequent investigation would address concerns regarding generation allocation and HB 2021 compliance issues related to large loads.

Staff Reaction to Party Comments
First, Staff wants to thank parties for their engagement in this process and the discourse stakeholders added to the discussion on these important topics. Staff shares CUB's concerns regarding both the Load Following Credit and the recovery of fixed generation costs, many of which Staff expressed in PGE's most recent general rate case. PGE explains its opposition to CUB's proposals in its comment, stating that they would not file a deferral related to the Load Following Credit and any changes to the credit should be addressed in a rate revision.[23] Further, PGE states that PGE's proposed tariff does not preclude generation allocation and rate design proposals to be made in future

[23] Docket No. UE 430, Reply Comments of Portland General Electric Company, February 19, 2025, accessed at: https://edocs.puc.state.or.us/efdocs/HAC/ue430hac335010026.pdf.

proceedings.[24] Staff would prefer that PGE make a binding commitment not to file a deferral related to the load following credit before its next rate case. However, Staff has expressed via email, and reiterates here, that Staff will not support any deferrals or amortization of any deferrals related to increases to the Load Following Credit due to new large customers connecting to the system prior to the Load Following Credit being addressed in PGE's next general rate case. Further, Staff would also prefer that a reopener be included in PGE's contracts such that if a minimum generation demand were to be established in one of the subsequent investigations, it would apply retroactively. However, Staff does believe that addressing this issue through rate design is a reasonable approach and understands PGE's hesitation to insert open-ended reopener clauses into customer contracts.

Staff is sympathetic to GEI's conflict about the procedural path forward. In a vacuum, Staff would prefer that the modifications that Staff proposed in its January 28, 2025, comments be adopted immediately. Staff has included a summary of proposed modifications from UE 430 participants along with Staff's position of support in Attachment 2. If the Commission adopts GEI's recommendation, it will be necessary for the Commission to schedule a hearing as PGE has already requested one within the statutory 60-day period specified in ORS 757.210. In this case, the other issues relating to allocation of transmission costs would likely be addressed in a separate proceeding unless Staff or other parties receive permission to expand the scope of the UE 430. If the Commission adopts the tariff as PGE proposed and another interested person or persons requests a hearing, the Commission would not be *required* under ORS 757.210 to hold a hearing regarding the tariff changes in UE 430.[25] In this case, the Commission could specify that investigation into the tariff provisions and the other issues discussed above would be done in the subsequent docket.

That said, the Commission has broad authority to decide how to move forward with this case. In whatever path forward the Commission chooses, Staff opposes any delay to the start of the transmission allocation investigation, a process that does not bring about a timely resolution of unresolved issues with PGE's proposal and expresses concerns with a path forward that delays tariff implementation.

Staff Recommendation and Commission Options

Staff's goals in addressing PGE's proposal are to put important protections in place quickly, shift focus to large customer spread as soon as possible, and limit uncertainty over contract terms for prospective large customers.

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[24] *Id.*

[25] This is because no other interested person filed a request for hearing within 60 days of time PGE filed its tariff. The Commission has discretion as to whether to hold a hearing for a request for hearing filed outside that time period.

As discussed above, UE 430 participants considered several procedural pathways that balance these goals, recognizing procedural risks and calls for more investigation. the interest of pursuing the cost allocation investigations as efficiently as possible, Staff recommends adopting PGE's amended tariff subject to the addition of contract reopeners, and immediately opening a docket concerning the allocation of transmission costs associated with new large load. In the event the Commission opens a second investigation, Staff will work to ensure the discovery provided in Docket No. UE 430 is made available in the new docket, subject to any protective order issued in that docket.

However, this is not the only procedural option for addressing PGE's proposed contract changes, as mentioned above. The Commission's options are below:

(1) Suspend Advice No. 24-38 and investigate/conduct hearing under ORS 757.210.
- *Under this option, no provisions of the tariff would be implemented on an interim basis.*
- *The Commission is obligated to conclude the investigation/hearing of the proposed tariff within nine months of the date of suspension.*
- *Any broader investigation opened at Staff's request would run parallel to the UE 430 investigation/hearing process or, with approval of Administrative Law Judge or Commission, issues of the broader investigation could be incorporated into UE 430.*

(2) Approve Advice No. 24-38 as amended by PGE, with the Staff condition the tariff specify contract reopeners for identified terms and open additional investigations.
- *Parties other than PGE could request a hearing under ORS 757.210, but the Commission is not required to hold one. (PGE is the exception because it filed a "provisional" request for hearing within 60 days of the day the tariff was filed.)*
- *If the Commission approves the tariff as described above and does not conduct a hearing in UE 430, further analysis of the issues raised in UE 430 would be addressed in the subsequent investigations.*
- *Certain identified provisions would be subject to modification in contracts signed after the effective date of the tariff, depending on the outcome of the first investigation.*

(3) Suspend Advice No. 24-38 for investigation and hearing and order Interim Rates.
- *The interim rates need not match the rates in the tariff as filed, i.e., could include the terms recommended by Staff and intervenors, and would be subject to "refund" depending on the Commission's final order in UE 430.*
- *Any broader investigation opened at Staff's request would run parallel to this investigation/hearing process or, with approval of Administrative Law*

Judge or Commission, be incorporated into the hearing/investigation process in UE 430.

- *All provisions covered by the interim should be subject to change in any contract executed by PGE prior to the conclusion of the hearing/investigation into Advice No. 24-38.*
- *The Commission is obligated to conclude the investigation/hearing of the proposed tariff within nine months of the date of suspension.*

<u>Conclusion</u>

Staff views PGE's tariff proposal as a reasonable starting place for discussing stranded asset and excess demand concerns caused by large customers. However, both Staff and intervenors see room for improvement. These opinions are often divergent. As such, Staff is recommending that PGE's tariff be adopted as filed, with the addition of language specifying that certain terms are subject to modification pending the outcome of a subsequent investigation. Staff is proposing that changes to PGE's filing be addressed in a subsequent contested case that also addresses transmission cost allocation concerns. Further, Staff is recommending that the Commission open another contested case, after the first subsequent investigation is completed, regarding generation allocation and HB 2021 compliance issues caused by new large load. Staff believes that this approach balances the need of certainty for large customers and the utlity with inter-class cross subsidization concerns. Staff's highest priority is that the protections outlined in this docket and the subsequent investigations are not delayed.

PROPOSED COMMISSION MOTION:

Open and conclude an investigation into Advice No. 24-38 revising Rule C – Conditions Governing Consumer Attachments to Facilities and Rule I – Line Extensions, on and after March 5, 2025, and approve the Advice Filing, with less than statutory notice, subject to the condition PGE file a modified tariff specifying that for any Customer Service Contracts signed after the rate effective date the following terms will be subject to change, pending the outcome of an investigation into same:

(a) Rule I, Section 5(H) Minimum Transmission Demand
- Threshold percent
- Timing for applicability

(b) Rule I, Section 5(G) Capacity Exceedance Penalty
- Amount
- Buffer

(c) Rule I, Section 5(E), Exit Fee

- Calculation

Initiate a contested case process and establish a procedural schedule to investigate the following scope:

- Further modifications to Rule C and Rule I, and
- PGE's marginal cost study's treatment of transmission costs for large customers.

Effective for service rendered on and after March 5, 2025.

PGE UE 430/Advice 24-38 Investigation into New Load Connection Costs

Attachment 1

On December 19, 2024, the Commission decided many issues similar to those discussed in this case in Order 24-447.[1] This order was in relation to PacifiCorp's 2024 General Rate Case. In this order, the Commission resolved seven key issues that apply primarily to customers with demand in excess of 50 MW.

- *Capacity Reservation and Excess Demand Charges* – The Commission established two charges meant to incent large customers to accurately forecast their load and pay for incremental costs they incur on the system even when their load deviates from forecast:
    - A Capacity Reservation Charge of $3.68 per kW of reserved capacity that applies to any shortfall in kW between a customer's actual peak demand and 90 percent of the customer's reserved capacity.
    - An Excess Demand Charge set at three times the Capacity Reservation Charge that applies to an excess demand beyond the customer's reserved capacity.

- *Site Aggregation* – The Commission ruled that it is reasonable to allow customers to aggregate their load for the purposes of the Capacity Reservation and Excess Demand Charges subject to the sites being owned by the same legal entity, served by the same transmission substation, and do not have a meter requiring an upgrade from the other meters in the aggregation.

- *Limitation on Reducing Reserved Capacity* – The Commission ruled that very large customers cannot unilaterally reduce their reserved capacity by more than 50 MW or 10 percent per year, whichever is smaller.

- *Large Load Customer Line Extension Payment Schedule* – The Commission ruled that customers with 1 MW or more of load be required to pay 80 percent of its line extension cost upfront, with the remaining 20 percent to be paid upon completion.

- *Crediting of Revenues Collected* – The Commission directed PacifiCorp to track any revenues generated by the Capacity Reservation Charge through a deferral. These revenues will then be amortized to all customers who would have born the cost and risks of the additional assets caused by large customers.

- *Applicability to Direct Access* – The Commission ordered that the Capacity Reservation Charge and Excess Demand Charges apply to short-term direct access customers, but not customers who have started their five-year transition

[1] *In the Matter of PacifiCorp dba Pacific Power, Request for a General Rate Revision, Docket No. UE 433, Order No. 24-447 (December 19, 2024).*

period.

- *Denying Load Requests and Speculative Load* – The Commission found that PacifiCorp had not met its burden of proof to demonstrate that it is reasonable to update its tariff to identify some loads as speculative and deny service for these loads. However, the Commission did find that PacifiCorp had met its burden of proof that it is reasonable to implement language permitting the company to negotiate a line extension allowance for situations in which there would be limited revenues, a high line extension cost relative to the revenue, or for service to loads that will not have permanent ongoing revenue.

Attachment 2

Table 1. Staff Positions on Proposed Amendments

Proposal	Proposed By	Staff Position
90% Minimum Transmission Demand	Staff	Support.
Delayed System Capacity Allocation Deposit	Staff	Support.
Tiered Exceedance Penalty	Staff	Support in concept, would pursue further investigation.
Contributions in Aid of Construction – Distribution	Staff	Support.
Suspension Mechanism on Load Following Credit (LFC)	CUB	Oppose. However, Staff will oppose any deferral related to new large customers becoming eligible for the LFC.
Reopener for Additional Capacity Costs in Allocated Capacity Charge	CUB	Staff takes no position. Staff believes this can be done through rate design or terms in customer LLCAs.
No Exceedance Penalty Buffer	GEI	Support.
12-year Limit on Minimum Transmission Demand	DCC	Oppose.
Outcomes of Investigations on Going-Forward Basis Only	DCC	Oppose.
70% Minimum Transmission Demand	AWEC	Oppose.
Allow certain exceptions to Minimum Transmission Demand for Maintenance Curtailments	AWEC	Support in concept, would pursue further investigation.
Exceedance Penalty Reflect Reserved Capacity Under OATT	AWEC	Oppose.