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October 13, 2025

Via Electronic Filing

Public Utility Commission of Oregon
Attn: Filing Center
201 High Street, S.E.
P.O. Box 1088
Salem, OR 97308-1088

RE: AR 674 Division 91 Rulemaking Energy Amendments

Dear Filing Center:

Portland General Electric Company (PGE or the Company) respectfully submits this response to Public Utility Commission of Oregon (OPUC or the Commission) Staff's request for final comments on their proposed Division 91 amendments in the AR 674 Informal Rulemaking regarding Small Scale Renewables (SSR). PGE thanks Staff for their continued constructive engagement with utilities and other stakeholders in this matter.

Position summary

PGE supports the Commission's intent, stated in Order No. 25-232,¹ to limit the scope of this rulemaking to address clarifications regarding the two categories of issues raised in PacifiCorp's DR 58 petition for a declaratory ruling on small-scale renewable issues: the SSR compliance obligation calculation and SSR project eligibility.

With this in mind, PGE agrees with and supports Staff's proposed amendments to OAR 860-091-0020, which address Aggregate Electrical Capacity and clarify the inputs necessary for utilities to calculate compliance with the SSR standard.

Furthermore, PGE agrees with and supports Staff's proposed amendments to OAR 860-091-0030(1), (2)(a) and (2)(b), which clarify SSR project eligibility and are directly responsive to PacifiCorp's petition, in keeping with the limited scope the Commission directed for this proceeding.

¹ *In the Matter of PacifiCorp, Petition for Declaratory Ruling on Small-Scale Renewable Issues*, Public Utility Commission of Oregon, Order No. 25-232, June 26, 2025. ("This order memorializes our decision . . . to . . . open a rulemaking docket . . . with the modification to limit the scope to addressing clarifications regarding the two categories of issues raised in PacifiCorp's filing [including] SSR project eligibility.") *See also*, PacifiCorp Petition for Declaratory Ruling on Small-Scale Renewable Issues, DR 58, May 2, 2025, page 6 ("To resolve any ambiguity, PacifiCorp requests the Commission declare whether the following resources are also SSR-eligible: (1) CSP projects; (2) resources that interconnect with PacifiCorp's system through surplus interconnection services; and (3) scenarios where multiple SSRs are located within close proximity of each other"). <https://apps.puc.state.or.us/orders/2025ords/25-232.pdf>

PGE does not, however, support or agree with Staff's proposed amendments for OAR 860-091-0030(2)(c) or -0030(3)(a) or (3)(b). These amendments are not necessary to respond to PacifiCorp's petition and address broad policy questions inconsistent with the limited scope the Commission sought for this rulemaking process. The -0030(2)(c) and -0030(3)(a) and (b) amendments seek to clarify points that have already been made clear in statute and in Commission Order No. 21-464.² Rather than clarifying the rules, reopening these points in this proceeding may create ambiguity and invite further process and debate during formal rulemaking that could threaten Staff's stated belief that "a rulemaking can be conducted efficiently to provide guidance to the utilities in as quickly as six months."³ If these provisions were the starting point for the formal rulemaking, during the rulemaking PGE would strongly oppose any effort to finalize provisions that are not supported by the statutory language and legislative direction.

Discussion

PGE offered detailed comments on Staff's initial straw proposal in AR 674 regarding SSR eligibility, inclusion of behind-the-meter (BTM) resources, the Scope of ORS 469A.210 and Legislative History. We reiterate those comments here by reference. We also offered point-by-point areas of agreement and disagreement with specific elements of Staff's straw proposal, and we thank Staff for their responsiveness in considering those points and simplifying their current proposal for amendments to the Division 91 rules.

As noted above, PGE supports and agrees with Staff's proposed amendments to OAR 860-091-0020, as well as OAR 860-091-0030(1), (2)(a) and (2)(b). These are straightforward amendments that clarify the rules and are responsive to PacifiCorp's petition within the limited rulemaking scope ordered by the Commission. We note the inherent tension between the language in -0020 for calculation of aggregate capacity in the denominator and the exclusion of BTM resources in OAR 860-091-0030(2)(c) and -0030(3)(a). In -0020, the new language clarifying that aggregate electrical capacity includes resources that are "used to serve Oregon load" implies that other resources "used to serve Oregon load" should also qualify for addition to the denominator. Beyond a shadow of a doubt, BTM resources serve Oregon load when they are used to either reduce energy and capacity needs for serving a customer or when that same resource exports energy to the grid. In both cases, the BTM resource reduces the need for the utility to provide that same energy or capacity. Since the BTM resource ultimately supports load needs, we can bypass the debate over whether utility planning treats it as a load reduction or a supply resource, as the statute doesn't require us to make that distinction. If included in the denominator in this fashion, the resource must also be included in the numerator.

With regards to Staff's proposed amendments for OAR 860-091-0030(2)(c) and -0030(3)(a) and (3)(b), PGE believes that these are unnecessary and unhelpful revisions to the rules that require more in-depth investigation and discussion than the current proceeding allows and which give rise to complex legal issues regarding the scope of the statutory requirement. Inclusion of the proposed

² OPUC Order No. 21-464, retrieved from <https://apps.puc.state.or.us/orders/2021ords/21-464.pdf>

³ OPUC Order No. 25-232, Appendix A, page 8 of 9, retrieved from <https://apps.puc.state.or.us/orders/2025ords/25-232.pdf>

language would fossilize substantive policy decisions that are inconsistent not only with Commission direction in this docket, but also inconsistent with its direction to utilities in other regulatory proceedings. The simple approach to resolution of PGE's concern is understand that adoption of these amendments is not required to dispose of the questions raised in PacifiCorp's petition. But if Staff deems it necessary to go beyond the direction of the Commission in this regard, PGE would ask that, at a minimum, it adopt policy that does not harm current or future opportunities to leverage and value a whole class of distributed energy resources.

Specifically:

- **As stated, these questions regarding BTM resources do not need to be resolved in this rulemaking.** PacifiCorp did not ask for clarification of whether net-metering facilities are SSR eligible. The Commission's direction in Order No. 21-464 was that BTM resources were not eligible at that time and that finding requires no reinforcement or clarification. Thus the proposed -0030(3)(a) amendments are unnecessary. Adopting the draft rule would ignore the flexibility the Commission provided in Order No. 21-464 to potentially include BTM resources in the future.⁴ The current informal rule process afforded no opportunity for such a demonstration and lacked even substantive discussion of how such a demonstration might be made. PGE disagrees with the Commission determination in Order No. 21-464 regarding qualification of BTM resources but accepted the decision because it did not foreclose the possibility that utilities could demonstrate eligibility in the future without requiring further rulemaking or a Commission-granted waiver to the rules, which is what would be necessary if this amendment is adopted at this time. A better approach, in the "do no harm" category, if Staff were determined to add language on this topic in rule, would be to codify the Commission's flexible approach and provide criteria for how a showing or demonstration could be made.
- **The proposed amendments for OAR 860-091-0030(2)(c) and -0030(3)(a) and (3)(b), taken together, do not in fact clarify but rather risk creating confusion about what resources are SSR eligible.** No party has expressed uncertainty about whether energy storage systems are eligible resources, for instance. They are not generating facilities and are not RPS-eligible, so there is no need to specify in rule that they do not qualify. At the same time, specifying that front-of-meter resources that are incorporated into a microgrid or other resilience project configuration are SSR eligible creates ambiguity as to whether or not a behind-the-meter (BTM) resource incorporated into a microgrid or other resilience project configuration would be eligible (so long as, PGE assumes, the system is not also net-metered and falls under the -0020 exception). PGE cannot divine a logical policy reason for including FTM resources in microgrids but not BTM resources in microgrids, especially if the BTM resource is grid connected when not directly supporting the microgrid. Further, PGE notes that this proposed rule adoption is premature, given that the legislature recently directed the OPUC to adopt rules regarding microgrid development.

⁴ OPUC Order No. 25-232, Appendix A, page 7 of 9 ("In the future, such resources may be considered a more active part of the utility's capacity portfolio, and we are willing to revisit this determination upon a demonstration that this paradigm has changed in ways that make customer-owned resources part of a utility's supply portfolio.")

PGE believes that any treatment of microgrid resources under the SSR should be determined after the microgrid rulemaking to ensure consistency.

- **The proposed amendments reduce the incentive to create potential value propositions for innovative utility/customer partnerships.** Regardless of whether the proposed rules are read to mean only net-metered BTM resources are excluded from SSR eligibility, or that all BTM resources are excluded regardless of whether they are net-metered, this appears to work against Commission guidance and direction in other dockets where utilities are being encouraged to find ways to more closely integrate customer-owned resources into their systems and to create incentives for customers to participate. Walling off any potential for BTM resources to contribute to SSR compliance effectively creates an incentive structure where there is no value proposition for utilities to pursue these resources, and on the flip side creates an incentive structure that is almost entirely focused on acquisition of PURPA-qualifying and Community Solar Program resources – two classes of resource that already offer substantial incentives to potential developers at a substantial cost to utility customers.⁵ This appears inconsistent with the Commission's and stakeholders' strong emphasis on the need to consider and advance customer affordability, flexibility, and resilience across all aspects of utility resource planning.
- **Each of the above issues deserve to be considered in the context of a better understanding of the costs associated with SSR compliance.** PGE recognizes that there is a statutory obligation for SSR compliance, and that a cost premium for SSR resources may be justified on policy grounds that may, to a degree, color our evaluation of the acceptable impact of SSR compliance on utility customer affordability. That said, we respectfully encourage Staff and the Commission to incorporate an appropriate cost assessment into future consideration of amendments such as those proposed with OAR 860-091-0030(2)(c) and -0030(3)(a) and (3)(b). In order to inform such an assessment, utilities could be directed to file an annual status report prior to the July 1, 2029 compliance reporting date currently reflected in the Division 91 rules. The information required could be the same as outlined currently in the rule and would enable the Commission to track and make transparent the cost and rate impact of SSR compliance while also informing policy decisions relevant to compliance, such as the inclusion or exclusion of BTM resources.

Conclusion

From the initial adoption of ORS 469A.210 in 2007, and even since the first rulemaking was completed in 2021, the energy landscape has evolved significantly. Utilities are pursuing acquisition and integration of a greater and greater number of renewable megawatts due to renewable standards, fossil fuel siting restrictions, company-driven environmental and

⁵ As noted in previous comments, PGE believes there are valid reasons to not exclude BTM in the calculation of compliance with ORS 469A.210. PGE will not repeat those arguments here, except to state that PGE believes the statute directs utilities to pursue and integrate small scale resources *inclusive* of resources like community solar projects and QF projects that are smaller than 20MW as the draft rules provide, but also that it makes sense to believe that the legislature must have meant that utilities do something else other than what was already required. That something else, in PGE's view, is to obtain and integrate small scale resources from any supplier, regardless of size, location or ownership and ownership structure. To do otherwise inserts requirements and limitations where none exist.

sustainability goals, coal plant shutdowns and greenhouse gas reduction targets; load growth has spiraled upward at rates faster than anticipated; smaller-scale resources, including those behind the meter, have become more economic even when adding capacity improvements like batteries; additional policy drivers, like federal initiatives to drive down the cost of photovoltaics, have come to bear; and affordability of electricity has also come into the foreground as power costs in the region have driven spikes in electricity rates at the same time as macroeconomic factors have pinched household budgets resulting in numerous efforts to restructure how electricity rates are established and imposed. In this context, we need to explore what modifications to the existing rules would give service to this significantly changed energy landscape while being sensitive to the costs of compliance with the requirement. PGE sees consistency with the purpose and plain language of ORS 469A.210 as being the lodestone in this regard.

PGE thanks Staff for the opportunity to provide further comment. We endorse Staff's proposed -0020 and -0030(1), (2)(a) and (2)(b) revisions to the Division 91 rules and encourage the Commission to authorize formal rulemaking to adopt them. We ask that Staff forego the proposed OAR 860-091-0030(2)(c) and -0030(3)(a) and (3)(b) revisions at this time as being unnecessary, creating potential confusion, contrary to law, and likely requiring a more lengthy and extensive review and public discussion than is envisioned in the current proceeding.

We look forward to continued dialogue with all parties during this process.

Sincerely,

s/Jason Salmi Klotz

Jason Salmi Klotz,
Senior Manager, Regulatory Planning & Strategy