September 18, 2026
Public Utility Commission of Oregon
201 High St. SE, Suite 100
Salem, Oregon 97301-3398

RE: AR 676 Phase 2 - Track 1 Energy Advocate Comments on Staff's O&M V1 Concept

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On behalf of Oregon Citizens' Utility Board, Earthjustice, Climate Solutions, Oregon Environmental Council, Verde, NW Energy Coalition, Multnomah County Office of Sustainability, Oregon Just Transition Alliance, and The Green Energy Institute at Lewis & Clark Law School (collectively, the "Energy Advocates"), we represent a diverse group of environmental justice, climate, energy, and ratepayer advocacy organizations throughout Oregon. The following comments are in response to Staff's Straw Proposal via its V1 O&M Concept. We have appreciated the time for conversations on these issues, as well as utility pre-reads, including examples provided to articulate concerns and proposals.

From Staff, we understand a desire for our feedback to include any concerns we have with operations and maintenance (O&M) cost treatment, as well as any concerns about altering regulatory incentives we expect from the MRP process. The following comments outline concerns and areas where we still would like clarity around scenarios that are worthy, or not, of alternative treatment.

I. Introduction

In response to utility questions about whether the final policy determinations from this process will live in a rule or an order, we support Staff's desire for any associated rules to be durable, and also expect outcomes to be outlined in both rules and Commission order, depending on their content. Additionally, we fully support Staff hiring a consultant to perform a managerial/accounting audit of costs that would help inform establishing going-in rates. We understand concerns around costs and timing from Staff and believe resolving those concerns should be prioritized if possible.

Through this process, it has become clear that utilities believe the primary structure (the indexed revenue cap and its scope) will not work for various specific O&M costs/scenarios. Importantly, however, this new MRP structure is fundamentally more favorable to utilities for recovering O&M costs because, unlike the current structure, O&M costs will be indexed to inflation. Generally speaking, capital costs, not O&M costs, drive a utility to come in for a general rate case. The increased use of alternative recovery mechanisms (ARMs) in recent years demonstrates this–utilities are generally not coming in to recover O&M costs, but capital costs in between general rate cases.

II. Discrete Cost Categories do not Warrant Alternative Treatment just for Rising Faster than Inflation

Throughout conversations on O&M costs, we have heard utilities flag discrete cost categories as incompatible with the primary approach for the MRP. For example, utilities argued that labor costs may not track with standard inflation indices and therefore may warrant alternative treatment. However, the MRP approach is more generous than the current method of recovery of labor costs and other O&M costs. We currently understand Staff to use a "wage and salary" model that helps to account for increased wages by looking back at three years of wages and escalating those to the test year. Currently, there is no additional adjustment until the next rate case. But if the MRP structure includes an index, then utilities will see annual increases in O&M, including labor costs.

The MRP structure is based on general overall costs and not on specific items. Indeed, as some costs go up faster than inflation, other costs will not. Therefore, we strongly disagree that any specific cost category, including labor, warrants alternative treatment just because it may rise faster than inflation. Indeed, the fact that utilities can identify a handful of O&M costs that increase at a rate that is above the index does not suggest that there is a problem or that they should receive alternative treatment. The index is not supposed to forecast individual costs. Instead, the index is designed to give utilities a budget. If some costs increase faster than the index, the utility should look to control other costs so it can operate within the budget.

While we support Staff looking into alternative inflation indices to address utility concerns, we do not believe that a discrete O&M line item warrants special treatment outside of the cap just because it may increase beyond inflation. MRPs are supposed to move us from the growing single-issue recovery process we have in Oregon to encourage a more holistic approach. As CUB has argued elsewhere, this is fundamentally CUB's concern with utilities using ARMs for recovery in between general rate cases - the lack of holistic look at all costs can harm customers because it limits stakeholders' and the Commission's ability to identify areas to save costs. MRPs in Oregon are supposed to help us address this issue, and we cannot lose sight of the need for holistic review of costs and for cost containment. We appreciate Staff being clear that we currently do not allow dollar for dollar recovery of O&M now and the MRP process is not a signal that we should start. There should certainly not be universal treatment for a given O&M cost category.

III. Treatment of O&M Costs

In terms of Staff's current concept as it relates to cost characteristics and cost categories, generally we find the *guidance* of "cost characteristics" grouped with example "cost categories" to be more useful than relying solely on cost categories. Either way, just because an item or scenario falls under the guidance does not mean utilities should seek alternative recovery every time those boxes are checked. For example, while we *generally* could be open to using an alternative recovery for certain tax scenarios, we do not think that potential future tax policy, or historic tax policy examples, warrant automatic alternative treatment. This is why materiality thresholds are important.

In short, under an MRP we expect utilities to get smarter about planning. Take, for example, recurring T&D costs related to extreme weather events. *When* extreme weather happens can vary, but under climate change we know to *expect* extreme weather and plan for it. This includes preparing for recurring volatile costs. Unfortunately, climate change-related weather is our new normal. Similarly, while insurance costs have increased significantly in recent years, we should expect the insurance industry will get smarter and better at forecasting climate change-induced events and set rates accordingly. We should not assume that insurance costs will permanently be impossible to forecast and index.

IV. Customer Programs Outside the Cap

We agree with Staff that *if* certain customer programs will be left outside of the current scope, the specific programs themselves should be identified rather than creating a definition for a type of customer program that will be outside the scope. For example, we do not think that all state policy-driven programs to date, nor into the future, automatically warrant removal from the index because they are state policies. We agree with Staff that it is important to avoid the mindset that anything outside of utility control should be outside the cap. Also, while utilities do not have the final say on state policy, utilities do employ substantial influence over state policy development in Oregon.

HB 2475 programs are a bit different given the relationship between costs and the current program design and our collective ambition to ensure these programs reach maturity and benefit the hardest to serve customers. Utilities' repeated comments on potential impacts to HB 2475 programs should they remain under the cap caused concern among energy justice advocates. While we do not agree that having HB 2475 programs under the cap would justify any form of utility retreat from the programs, we have worked hard as stakeholders to improve these programs for Oregon's lowest income families and fundamentally do not want to do anything to impede our progress. Thus, **at this point in time, the main programs we would support falling outside of the index are the HB 2475 programs.**

Staff also identified demand response and flexible load programs, community solar administration, and community-based renewable energy (CBRE) as potentially appropriate to be handled outside of scope. We would like to better understand the rationale for excluding community solar administration from the scope, as well as how removing CBREs from the index intersects with the proposal to have a CBRE focused PIM. Additionally, we disagree that demand response programs should be outside of the cap. Demand response is an important and capital efficient alternative to battery storage or peakers that utilities would otherwise lean on to meet peak load. Demand response is also built off of rate-based assets (like smart meters) on which utilities earn a return. Utilities should manage these assets to reduce peak load in a way that is in the best interest of customers. Additionally, utilities already have an incentive to do demand response thanks to the PCAM. It would be irresponsible for utilities to deprioritize these programs if put under the cap given the grid environment we are in and the State's energy goals.

V. Alternative Recovery Tools

We understand from Staff that while these Track 1 O&M discussions are circling around alternative recovery and the justifications for each alternative recovery tool to be used, the details will actually be determined in Track 2. Acknowledging that, we share some thoughts and questions related to Track 2 decisions.

We would like to discuss not only the types of scenarios and costs that may warrant alternative recovery, but also the alternative pathways themselves:

- How do they compare and contrast in practice?
- How do they incentivize cost control?
- How do they recognize the utility's role in managing programs?
- How do they balance the interests of customers and shareholders?
- What will these tools look like in action, procedurally?
- What risks and benefits are there for customers, utilities and stakeholders for each pathway?
- How does an earnings sharing mechanism come into play, if at all?
- For alternative pathways related to mid-cycle adjustments, how will it be ensured that costs have not already been accounted for through the I-factor or another factor?

We believe that these questions should also help us think through the implications of the pathways and what corresponding justifications are needed given the implications.

With that said, the Z-factor, reopeners, and off-ramps should be used sparingly, if at all, when it comes to O&M costs. Any use of alternative ratemaking should *not* be based on a demonstration that the specific cost category changes in a manner that is different from the index, but should be

based on a demonstration that the cost category is causing overall O&M costs to change in a way that is materially affecting the utility's ability to provide service and maintain a reasonable rate of return, in spite of the utility's efforts to control costs. The utility should have to at least prove that: 1) the cost is changing significantly; 2) that this is impacting its ability to provide service with a reasonable shareholder return; and 3) that the utility is making its best effort to control costs.

VI. Going-In Rates

We support the use of a traditional forecast test year to set the going-in rates. But we remain concerned about the number of exceptions. The fact that a cost may deviate from the chosen indices – that a mismatch may exist between a cost category and an index – does not justify creating alternative pathways for cost recovery of that cost category. **The goal is to set reasonable rates, and give utilities known budgets, not create even more cost recovery pathways than currently exist. We want to create incentives to control costs, not incentives to justify alternative rate treatment.**

VII. Conclusion

Again, we expect outcomes from this process to be outlined in both rules and Commission order, and agree with PUC Staff that any rules be durable. We recommend that Staff hire a consultant to perform a managerial/accounting audit of costs that would help inform establishing going-in rates. We remain concerned that the IOUs are overstating concern with O&M treatment, and reiterate that the MRP structure is more favorable to IOUs for recovering O&M costs than under the current structure. Further, we remind utilities that the intent of HB 3179 (2025) is to better ensure that IOU ratemaking gives equitable treatment to residential customer affordability and MRPs in particular are meant to enable a more holistic approach to ratemaking. Special carveouts for alternative cost recovery are in direct opposition of this intent and any exceptions must be narrow and supported with evidence. Finally, we must ensure that the costs for HB 2475 (2021) implementation programs are not subject to the cap. Supporting energy affordability and keeping people safe and housed is consistent with Oregon policy and values and should not be limited.

Respectfully submitted this 18th day of September 2026,

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