— Pepple Moser PC —

October 9, 2026

Via Electronic Filing

Staff of the Public Utility Commission of Oregon
Attn: Michelle Scala
Oregon Public Utility Commission
michelle.m.scala@puc.oregon.gov

Re: In the Matter of OREGON PUBLIC UTILITY COMMISSION,
Rulemaking to Establish Multi-Year Rate Plan Framework (HB 3179 & SB 688 Implementation).
Docket No. AR 676

Dear Michelle Scala,

The Alliance of Western Energy Consumers ("AWEC") appreciates the opportunity to provide the following comments regarding Staff's Electric Distribution Concept v1, filed September 25, 2026.[1] As requested by Staff, the following comments address SCFM initial design considerations, specifically defining "project level materiality" and the Z-factor.

1. General Principles

Generally, AWEC believes that almost all distribution capital is programmatic and budgeted, and therefore is properly included in the index. Because of this, the importance of accurate going-in rates cannot be understated. AWEC therefore reiterates its recommendation that the revenue requirement in the first year of a multi-year rate plan ("MRP") be established through use of a historic test year with known and measurable adjustments.

Additionally, AWEC continues to recommend that alternative pathways, including the SCFM and Z-factor, be used sparingly throughout an MRP as application of these mechanisms are contrary to the objectives of MRPs. Rather, AWEC recommends that once the revenue requirement is established in Year One and then escalated as appropriate for Years Two through Five, the utilities are tied to this five-year budget, unless a material deviation of costs occurs such

[1] AWEC agrees with Staff that a reopener is not appropriate for consideration as an alternative pathway to bring in capital investment and more broadly, AWEC continues to recommend reopeners be removed as an option for an alternative pathway.

PEPPLE MOSER, P.C.
1500 S.W. First Avenue, Suite 980
Portland, Oregon 97201
503.883.8689

that the utility is over- or under-recovering based on their earned ROE such that rates are confiscatory or otherwise unjust and unreasonable. In such circumstances, an offramp should apply rather than mid-cycle adjustments.

2. SCFM Initial Design Considerations

AWEC agrees with many of Staff's statements in the Electric Distribution Concept v1 regarding the design of the SCFM, including setting a "high bar for use of the SCFM to balance lag and provide a limited supplement for defined, qualified exceptions," "preserv[ing] important cost containment incentives for utilities considering a SCFM filing," and "provid[ing] valuable customer protections against rate shock."[2] AWEC further agrees that any SCFM project should "require a demonstration of a capital need that cannot be reasonably absorbed via the index or addressed at the next rebasing,"[3] and that that any approved projects must be subject to prudence review and cannot result in double-counting of costs for customers. AWEC also supports Staff's proposal to perform a full update of depreciation in the event an SCFM is filed.

However, AWEC does not support Staff's proposed tiered approach. AWEC is concerned that, as proposed, Staff's tiered approach is arbitrary and may have unintended consequences. Specifically, if the Commission adopts a limit on the number of SCFMs that can be filed in a five-year rate plan (Staff proposes two), this will almost inevitably ensure that utilities will use the SCFM to the maximum amount permitted, rather than only when truly necessary. Rather, AWEC recommends that the only SCFM-eligible projects should be large discrete projects that meet a materiality threshold. AWEC proposes that this threshold be set at 5% of the utility's overall revenue requirement and is interested in feedback from other parties on this threshold. AWEC posits that if the goal behind Staff's tiered approach is to limit the number of times within an MRP that a utility can use an SCFM, the materiality threshold alone can be designed such that this goal is achievable. AWEC's proposed approach aligns with the overarching MRP goals of cost containment and reduced administrative burden, and is designed so that the materiality threshold is high enough that the SCFM is not abused as an alternative cost recovery mechanism.

In addition to a materiality threshold, AWEC recommends that, to the extent project costs subject to an SCFM are forecasted into rates, any over-forecast of costs be refunded to customers at the time the project goes into service. Conversely, if project costs exceed forecasted costs, the utility should not be able to recover those costs from customers, absent a separate prudence determination by the Commission. This is fair for several reasons. First, the utility will be in the best position to forecast the costs of a project subject to the SCFM and should not be able to benefit from an over-forecast of costs under a mechanism that represents an exception to the standard MRP framework. Second, if costs exceed the forecast, such costs will not have been deemed to be prudent since the Commission would have authorized the SCFM project based on

---

2 Staff's Electric Distribution Concept v1, at 7 (Sept. 25, 2026).

3 *Id.* at 8.

PEPPLE MOSER, P.C.
1500 S.W. First Avenue, Suite 980
Portland, Oregon 97201
503.883.8689

the utility's forecast, not the actual higher costs that materialized. As such, the utility should have to demonstrate the continued prudence of the project at the higher cost.

3. Z-Factor

AWEC generally agrees with Staff's that potential Z-factor adjustments will be "event driven" and use of this adjustment mechanism should only be for "discrete, material, *exogenous and unforeseen*" costs that cannot be managed within the MRP.[4] To that effect, AWEC notes for Staff's consideration ORS 757.457 and ORS 757.461. Pursuant to ORS 757.457(11)(a), "rate recovery expenditures" is defined as, among other things:

> [C]osts and expenses incurred or to be incurred by a public utility associated with***…[a]n event that is the subject of a federal or state declaration of a state of emergency, such as severe weather, catastrophic wildfire, pandemic*** or other event that causes or threatens to cause widespread loss of life, injury to person or property, human suffering or financial loss[.]

Additionally, ORS 757.461 sets forth the regulatory process by which a utility may submit an application to the Commission to finance or refinance rate recovery expenditures through rate recovery bonds. This process includes, among other things, notice and opportunity of a hearing and further requires the Commission to "issue an order within 180 days of an application approving or denying the application."[5] Based on the current description of the Z-factor, it is likely that an event that meets the definition of rate recovery expenditures under ORS 757.457 would trigger a Z-factor adjustment. AWEC brings this to Staff's attention to ensure that the process for implementing the Z-factor does not inadvertently hinder or nullify the framework set forth in ORS 757.461 for utilities to finance or refinance rate recovery expenditures through rate recovery bonds by failing to require the procedural safeguards necessary to allow utilities to secure costs that qualify as "rate recovery expenditures."

4. Revenue Requirement and Depreciation

AWEC supports Staff's proposal to update depreciation schedules "with each alternative adjustment to recognize accumulated depreciation on existing rate base, depreciation associated with new investment, and applicable retirements and other offsets." AWEC agrees with Staff that the regulatory lag and cost risk that the utility will avoid through application of alternative mechanisms cannot be overlooked.

///

---

4 Staff's Electric Distribution Concept v1, at 6 (Sept. 25, 2026).

5 ORS 757.461(1)(c) (emphasis added).

PEPPLE MOSER, P.C.
1500 S.W. First Avenue, Suite 980
Portland, Oregon 97201
503.883.8689

5. Process and Early Eligibility Review

Staff's proposal to develop an early procedural review with the opportunity for a preliminary Commission decision regarding the applicability of an alternative mechanism is concerning. Although AWEC recognizes Staff's desire to lessen administrative burden for instances when the "criteria for use is not met," AWEC nevertheless opposes any process that reduces stakeholder involvement and removes opportunities for parties to represent their interests. As discussed previously in these comments, there should be a high bar and a materiality threshold to qualify for a special cost recovery mechanism during an MRP. That alone should be sufficient in most cases to establish whether an SCFM or Z-Factor is appropriate. In cases where a utility requests use of one of these mechanisms despite failing to meet the applicable requirements, all stakeholders should have a full opportunity to address this situation.

AWEC appreciates the opportunity to provide these comments and looks forward to continuing to work with Staff and stakeholders to this proceeding.

Dated this 9th day of October, 2026.

Respectfully submitted,

PEPPLE MOSER, P.C.

/s/ Tyler C. Pepple

Tyler C. Pepple, OSB #132256
Corinne O. Olson, OSB #194200
1500 S.W. First Avenue, Suite 980
Portland, Oregon 97201
503.883.8689
tyler@pepplemoser.com
corinne@pepplemoser.com

Of Attorneys for the Alliance of Western Energy Consumers