

1 **BEFORE THE PUBLIC UTILITY COMMISSION**  
2 **OF OREGON**

3 UE 416

4 In the Matter of

5 PORTLAND GENERAL ELECTRIC  
6 COMPANY.

7 Request for a General Rate Revision; and 2024  
8 Annual Power Cost Update.

**STIPULATING PARTIES' RESPONSE TO  
OBJECTIONS OF THE ALLIANCE OF  
WESTERN ENERGY CONSUMERS TO  
FIFTH PARTIAL STIPULATION**

9 **I. INTRODUCTON**

10 Pursuant to Administrative Law Judge Lackey's March 13, 2023 Prehearing Conference  
11 Memorandum, the Oregon Citizens' Utility Board (CUB), Portland General Electric Company  
12 (PGE), and Staff of the Public Utility Commission of Oregon (Staff), Fred Meyer Stores and  
13 Quality Food Centers, Division of the Kroger Co. (Kroger), Walmart, Inc. (Walmart), the Small  
14 Business Utility Advocates, and the Community Action Partnership of Oregon (CAPO),  
15 (collectively, the "Stipulating Parties") file this Response to the Objections of the Alliance of  
16 Western Energy Consumers (AWEC) to the Fifth Partial Stipulation in the above-referenced  
17 docket. The Stipulating Parties filed the Fifth Partial Stipulation with the Public Utility  
18 Commission of Oregon (Commission) on October 6, 2023, and AWEC filed objections and  
19 supporting testimony on October 23, 2023.

20 The Stipulating Parties continue to urge the Commission to adopt the Fifth Partial  
21 Stipulation (Stipulation) as a reasonable compromise of the Schedule 118 Income Qualified Bill  
22 Discount Program (IQBD) cost recovery mechanism cap. The Stipulation was entered into by a  
23 broad and diverse group of parties—seven different parties ranging from large corporations to  
24 small non-profits representing the interests of low-income customers on PGE's system all found  
25 its terms to be reasonable. The Stipulating Parties offered varied approaches to the Schedule 118  
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1 cap issue in this proceeding before settling on the terms of the Stipulation.<sup>1</sup> The Commission  
2 should consider the diverse viewpoints represented within the Stipulating Parties when  
3 determining whether the Stipulation meets the legal criteria for Commission adoption. For the  
4 reasons addressed herein and in the attached Joint Testimony, the Stipulating Parties respectfully  
5 urge the Commission to adopt the Stipulation without modification as a fair and reasonable  
6 compromise of this issue that furthers the public interest.

## 7 **II. STANDARD OF REVIEW**

8 Under OAR 860-001-0350, the Commission may adopt, reject, or propose to modify a  
9 stipulation. If the Commission proposes to modify a stipulation, the Commission must explain  
10 the decision and provide the parties sufficient opportunity on the record to present evidence and  
11 argument to support the stipulation.<sup>2</sup>

12 In reviewing a stipulation, the Commission reviews to determine whether the overall  
13 result of the stipulation results in fair, reasonable, and just rates. The Commission review  
14 settlements on a holistic basis to determine whether they serve the public interest and result in  
15 just and reasonable rates.<sup>3</sup>

16 A party may challenge a settlement by presenting evidence that the overall settlement  
17 results in something that is not compatible with a just and reasonable outcome. Where a party  
18 opposes a settlement, the Commission will review the issues pursued by that party, and consider  
19 whether the information and argument submitted by the party (which may be technical, legal, or  
20 policy information and argument) suggests that the settlement is not in the public interest, will  
21 not produce rates that are just and reasonable, or otherwise is not in accordance with the law. To

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24 <sup>1</sup> See UE 416 – Stipulating Parties/300/Muldoon-Jenks-Kaufman-Bieber-Chriss-Springer-  
Kermode-Macfarlane/15-16.

25 <sup>2</sup> *In re Portland General Electric Company*, Request for a General Rate Revision; and 2024  
Annual Power Cost Update, OPUC Docket No. UE 416, Order No. 23-386 at 13 (Oct. 30, 2023).

26 <sup>3</sup> *Id.* at 12-13.

1 support the adoption of a settlement, the Stipulating Parties must present evidence that the  
2 stipulation is in accord with the public interest, and results in just and reasonable rates.<sup>4</sup>

3 The Commission generally supports settlements and encourages “parties to voluntarily  
4 resolve issues.”<sup>5</sup>

### 5 III. RESPONSE TO OBJECTIONS

6 Based on the robust evidentiary record already contained in this proceeding, in addition  
7 to the Joint Testimony attached herewith, the Stipulating Parties have met their burden to present  
8 evidence that the Stipulation is in accord with the public interest and results in just and  
9 reasonable rates. This is the case, in part, because the Stipulation ensures that PGE’s largest  
10 customers will contribute to the IQBD program in a manner that is roughly commensurate—  
11 from a percentage of total utility bill perspective—with other customers on PGE’s system.<sup>6</sup>  
12 AWEC objects because it believes the Stipulation “unfairly burdens PGE’s large customers in  
13 violation of traditional ratemaking principles adhered to by the Commission, including the cost  
14 causation principle.”<sup>7</sup>

15 However, AWEC fails to consider the reasons why Schedule 118 was instituted—low-  
16 income assistance programs have typically been spread across customer classes more broadly.  
17 According to the Commission:

18 [W]e recognize that it is true that generally costs are allocated to the customer class that  
19 incurs them or otherwise benefits from those costs. However, there are instances when it

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20 <sup>4</sup> *Id.* at 13.

21 <sup>5</sup> *In re PacifiCorp, dba Pac. Power, 2010 Transition Adjustment Mechanism*, OPUC Docket No.  
22 UE 207, Order No. 09- 432 at 6 (Oct. 30, 2009); *in re PacifiCorp, dba Pac. Power, Transition*  
23 *Adjustment, Five-Year Cost of Serv. Opt-Out*, OPUC Docket No. UE 267, Order No. 15-060 at 4  
24 (Feb. 24, 2015) (“Although we encourage parties to resolve disputes informally, we must review  
25 the terms of any stipulation for reasonableness and accord with the public interest.”); *in re*  
26 *Portland Gen. Elec. Co., 2005 Resource Valuation Mechanism*, OPUC Docket No. UE 161,  
Order No. 04-573 at 4 (Oct. 5, 2004) (“The Commission encourages parties to a proceeding to  
voluntarily resolve issues to the extent that settlement is in the public interest.”).

<sup>6</sup> Stipulating Parties/600.

<sup>7</sup> UE 416 – Objections of AWEC to Fifth Partial Stipulation at 2.

1 is appropriate to spread costs more broadly. For example, the costs of residential support  
2 programs for low-income customers are spread across the customer classes.<sup>8</sup>

3 Here, the Commission should find that the costs associated with PGE’s IQBD program are  
4 appropriately spread to PGE’s customer classes in the manner detailed in the Stipulation. It is  
5 appropriate for all of PGE’s customers to contribute to this low-income assistance program,  
6 especially since HB 2475 has given the Commission the explicit ability to consider differential  
7 energy burdens on low-income customers that affect affordability. Given the size of the increase  
8 granted by the Commission in this proceeding, it is even more pressing that PGE’s low-income  
9 customers are granted the assistance they need.

10 The Stipulation ensures that all customers on PGE’s system fairly contribute to this  
11 important program and the Stipulating Parties respectfully urge the Commission to adopt its  
12 terms as a reasonable compromise that is in accord with the public interest and will result in just  
13 and reasonable rates. Given the evidence provided by the Stipulating Parties throughout this  
14 proceeding, the Stipulation meets the Commission’s standard for adoption.

15 **A. Despite AWEC’s claims, the Stipulation will not disproportionately affect PGE’s**  
16 **largest customers in an unjust and unreasonable manner.**

17 AWEC argues that the 20 million kilowatt-hour (kWh) cap contained in the Stipulation is  
18 unjust and unreasonable because it will disproportionately affect PGE’s largest customers.<sup>9</sup>  
19 According to AWEC, the Stipulating parties have failed to explain why the Stipulation—which  
20 would spread costs from smaller customer classes to larger customers in a more symmetrical  
21 manner—would result in just and reasonable rates.<sup>10</sup> The Stipulating Parties dispute AWEC’s

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23 <sup>8</sup> *In re Northwest Natural Gas Company, dba NW Natural, Request for a General Rate Revision,*  
24 *Advice 20-19, Schedule 198 Renewable Natural Gas Recovery Mechanism*, OPUC Docket No.  
25 UG 435, Order No. 22-388 at 29 (Oct. 24, 2022) citing NW Natural Gas Company Schedule 320:  
26 Oregon Low-Income Energy Efficiency (OILEE) Programs at 320-1; NW Natural Gas Company  
Schedule 301: Public Purposes Funding Surcharge at 301-1.

<sup>9</sup> UE 416 – Objections of AWEC to Fifth Partial Stipulation at 5.

<sup>10</sup> UE 416 – Objections of AWEC to Fifth Partial Stipulation at 6.

1 assertion that the Stipulation disproportionately affects PGE’s largest customers. As can be seen  
2 in the Joint Testimony accompanying this response, Schedule 90 (PGE’s largest customer) will  
3 contribute a lower percentage of their overall bill towards this essential program than every other  
4 class besides residential—of which the figures are nearly identical. Under the analysis contained  
5 in the Joint Testimony, PGE’s Schedule 90 would contribute 1.6% of its total bill towards this  
6 program and residential customers would average a contribution of 1.5% of their total bill  
7 towards the program.<sup>11</sup>

8         The figures AWEC relies upon in its testimony supporting its objections to the  
9 Stipulation are inapt because they compare total contributions towards Schedule 118 in some  
10 instances and use percentage of bill contributions in others. When a percentage of total bill  
11 comparator is used, the terms of the Stipulation clearly result in the most equitable spread of  
12 Schedule 118 costs between various customer classes. Contrary to AWEC’s claims, the  
13 Stipulating Parties believe it would be unjust and unreasonable to adopt AWEC’s proposal  
14 because the costs of the program would be unfairly shifted to other customer classes in a  
15 disproportionate manner. There are equity implications related to AWEC’s proposal that the  
16 Stipulating Parties urge the Commission to consider. For example, many residential customers  
17 who do not qualify for the IQBD program, yet are just outside the threshold for eligibility, would  
18 incur significant costs that would make up a significantly higher proportion of their bill than the  
19 Stipulation places onto Schedule 90 customers.

20         Finally, AWEC’s position relies on the mistaken belief that the magnitude of the rate  
21 increase is inconsistent with the \$500 per site amount authorized in ORS 757.698(1)(c) for low-  
22 income assistance.<sup>12</sup> The law that AWEC cites is inapplicable to this issue. It relates to electric  
23 utilities’ contributions to the Public Purpose Charge Fund. Even though this statute addresses  
24 low-income assistance, it is separate and distinct from the new and amended statute proposed

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<sup>11</sup> UE 416 – Stipulating Parties/600/18 at Table 1.

26 <sup>12</sup> AWEC/900, Kaufman/5.

1 and adopted in the Energy Affordability Act (EAA or HB 2475). HB 2475 represents a  
2 deliberate and robust policy measure to broaden Commission authority and expand Oregon’s  
3 energy burden mitigation toolkit.

4 The language in HB 2475 directs both the Commission and regulated utilities to consider  
5 energy burden on customers and other socioeconomic or environmental justice factors that affect  
6 affordability. It is inappropriate to regard ORS 757.698(1)(c) as precedential for the programs  
7 designed under the Energy Affordability Act as the laws are materially different in their effect  
8 and authority. In fact, the difference between these two laws is noteworthy. While the cap under  
9 ORS 757.698(1)(c) is expressly stated in law, no such cap was included in the subsequent and  
10 separate EAA. According to ORS 757.695, under the EAA the Commission may determine  
11 “[t]he manner in which the financial assistance will be recovered in the rates of the public  
12 utility.” There is no statutory obligation limiting the amount that an individual site could pay  
13 into a bill discount program such as the IQBD and it is ultimately up to the discretion of the  
14 Commission to determine a fair manner in which to spread the program costs.

15 Further, the law authorizing the IQBD program expressly include non-bypassability  
16 language. Specifically, that

17 the costs of tariff schedules, rates, bill credits or program discounts  
18 allowed pursuant to subsection (1) of this section must be collected in the  
19 rates of an electric company through charges paid by all retail electricity  
20 consumers, such that retail electricity consumers that purchase electricity  
21 from electricity service suppliers pay the same amount to address the  
22 mitigation of energy burdens as retail electricity consumers that are not  
23 served by electricity service suppliers.<sup>13</sup>

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26 <sup>13</sup> ORS 757.695(2).

1 While the latter part of the language is more applicable to ensuring direct access customers  
2 contribute to the costs of this program, the clause as a whole speaks to principles of shared social  
3 responsibility.<sup>14</sup>

4 To this end, the \$500 per site cap authorized in ORS 757.698(1)(c) is irrelevant to IQBD  
5 cost-recovery and provides neither precedent nor reasonable basis for the appropriate level of  
6 contribution to energy assistance programs.

#### 7 IV. CONCLUSION

8 For the reasons addressed herein, as well as the rationale articulated in the attached Joint  
9 Testimony, the Stipulating Parties respectfully urge the Commission to adopt the Fifth Partial  
10 Stipulation. The Stipulation was carefully negotiated amongst a wide range of parties and  
11 represents a true compromise of varying positions articulated on the record in this proceeding.  
12 The Stipulation is in accord with the public interest and furthers the spirit of HB 2475 by  
13 creating a program that will provide immediate benefits to customers experiencing low-income  
14 and spreads the program's costs equitably among rate classes. As such, the Stipulation will  
15 result in a just and reasonable outcome.

16 DATED this 9<sup>th</sup> day of November 2023.

17 Respectfully submitted,

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20 /s/ *Stephanie Andrus*

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26 <sup>14</sup> ORS 757.695.

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