— Pepple Moser PC —

July 6, 2026

Via Electronic Filing
Public Utility Commission of Oregon
Attn: Filing Center
201 High Street SE, Suite 100
Salem, Oregon 97301

Re: In the Matter of PORTLAND GENERAL ELECTRIC COMPANY, Investigation into Marginal Cost Study Treatment of Costs for Large Customers and Further Modifications to PGE's Rule C and Rule I.
Docket No. UM 2377

Dear Filing Center:

Please find enclosed the redacted Application for Reconsideration of the Alliance of Western Energy Consumers ("AWEC") in the above-referenced docket.

Thank you for your assistance. Please do not hesitate to contact me if you have any questions.

Sincerely,

/s/ Anna V. Congdon
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Enclosure

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 2377

In the Matter of PORTLAND GENERAL ELECTRIC COMPANY, Investigation into Marginal Cost Study Treatment of Costs for Large Customers and Further Modifications to PGE's Rule C and Rule I.

APPLICATION FOR RECONSIDERATION

ON BEHALF OF THE

ALLIANCE OF WESTERN ENERGY CONSUMERS

REDACTED VERSION

July 6, 2026

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I. INTRODUCTION

Pursuant to ORS 756.561 and OAR 860-001-0720, the Alliance of Western Energy Consumers ("AWEC") files this Application for Reconsideration ("Application") of Order No. 16-154 (the "Order") with the Oregon Public Utility Commission ("Commission"). With respect to the issues raised in this Application, the Order is legally or evidentiarily deficient, or both.

First, the Order errs as a matter of law by concluding that the Commission had jurisdiction to make a finding that a rate or schedule was "fair, just, and reasonable" under ORS 757.210 despite the fact that Portland General Electric Company ("PGE" or "Company")) had not complied with the necessary statutory prerequisite under ORS 757.220 that changes to a rate or schedule be initially filed with the Commission and *plainly indicate upon existing schedules* or by filing new schedules the changes that are being made.

Second, the Order also errs as a matter of law and, further, good cause exists to reconsider the Commission's decision to impose minimum demand charges on Schedules 89 and 90. These charges lack evidentiary support and are unlawfully discriminatory.

Third, the Order errs as a matter of law and, further, good cause exists to reconsider the Commission's decision to impose a capacity exceedance penalty on Schedules 89 and 90. Application of this penalty to these rate schedules, by the Commission's own admission, lacks any evidentiary support and, therefore, cannot be sustained.

Finally, while AWEC does not directly request reconsideration of the Commission's approval of the Peak Growth Modifier ("PGM") (other than as it influences changes to rate

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schedules that were not filed in this case), AWEC does wish to highlight the likely future impacts of the PGM for the Commission. Based on PGE's compliance filing in this docket, AWEC calculates that a Schedule 90 customer assigned growth costs would see a 35% increase to its current rates for the new growth.[1] With the creation of Schedule 96, Schedule 90 is now effectively a large manufacturing schedule. Such a substantial increase is likely to discourage future economic development in PGE's service territory, something the Governor formed her Prosperity Council to counteract.[2] In future proceedings, as the PGM's long-term effects become more apparent, the Commission and parties should consider refining or even eliminating it if it is not sending proper price signals to customer classes.

II. BACKGROUND

This case has a long and winding procedural history. Its origins were in Docket UE 416, PGE's 2023 General Rate Case. In that case, the Commission opened a new docket in conjunction with its approval of a settlement to address new load connection costs in PGE's service territory.[3] That investigation was docketed as UE 430. In that docket, following several months of delays, PGE proposed a number of revisions primarily to Rule I, its rules governing line extensions, that imposed certain costs and requirements on customers that exceeded

1 Schedule 90's current all-in rate is $87.38/MWh. PGE's compliance filing workpapers calculate generation-related growth costs in this case at $17.7 million and transmission-related growth costs of $38.6 million, which equates to a rate of growth costs of $30.06/MWh, which would be added to the existing rate.

2 https://www.oregon.gov/gov/policies/pages/prosperity-council.aspx.

3 Docket No. UE 416, Order No. 23-386 at 14 (Oct. 30, 2023) & Order No. 23-482 at 7-8 (Dec. 21, 2023).

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specified size thresholds.[4] These included minimum demand charges, exit fees, and exceedance penalties.[5]

Following PGE's filing, parties to the docket participated in several workshops to discuss the proposals, which ultimately led to a Staff recommendation at a Public Meeting for the Commission to open a new investigation into PGE's proposals and, in the meantime, approve PGE's Advice Filing with certain components of that filing – namely the minimum transmission demand charge, the capacity exceedance penalty, and the exit fee – explicitly subject to revision in any customer contracts signed after the Advice Filing's effective date in the event the Commission ordered different outcomes for these components.[6]

Rather than accept Staff's recommendation, however, the Commission suspended the entirety of PGE's Advice Filing for investigation and hearing.[7] It also invited PGE to file 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."[8] The "investigation addressed below" in the Commission's order became UM 2377, which was designed to be a "contested case process(es) to ensure that the scope of issues that have been raised during this proceeding [i.e., UE 430] are appropriately examined."[9]

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4 Docket No. UE 430, PGE Advice No. 24-38 (Dec. 20, 2024).
5 *Id.*, Exh. PGE/200, McFarland-MacFarlane/9:4-18.
6 *Id.*, Staff Report for March 4, 2025 Public Meeting at 19-20.
7 *Id.*, Order No. 25-091 at 1 (Mar. 6, 2025).
8 *Id.*
9 *Id.* at 1-2.

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Meanwhile, after the Commission opened UM 2377, but before parties had submitted any evidence in the case, the Oregon Legislature passed House Bill 3546, known as the POWER Act, which required the Commission to approve a separate data center rate class for PGE and PacifiCorp based on requirements in the legislation.

Pursuant to the procedural schedule adopted in UM 2377, the first evidence filed in the case was simultaneous opening testimony filed by all parties to the docket on August 11, 2025. In PGE's Opening Testimony, it proposed, among other things, a "Peak Growth Modifier" approach to customer class allocation that, as its testimony demonstrated, impacted the existing rates of all customer classes.[10] Despite this recommendation, the only tariffs PGE filed for revision in the docket were Schedule 96, the new data center rate class tariff required by the POWER Act, and Rule I.[11] At no point in this proceeding prior to the Order did PGE ever file revisions to any other tariff.

Despite this fact, PGE's compliance filing in response to the Order revises most of its tariffs currently in effect. This includes the vast majority of each type of charge for all customer classes (energy charges, demand charges, system usage charges, etc.), and even updates rider schedules that were never mentioned in the case, such as Schedule 121 to recover costs associated with PGE's Distribution System Plan Alternative Recovery Mechanism.

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10 PGE/100, Ferchland-Barrow/24 (Table 6).
11 PGE/101, PGE/105.

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III. LEGAL STANDARD

Under the Oregon Revised Statutes, the Commission may grant an application for rehearing or reconsideration if "sufficient reason therefor is made to appear."[12] Further, under its administrative rules, the Commission may grant an application for rehearing or reconsideration if the applicant shows that there is one of the following (1) "[n]ew evidence that is essential to the decision and that was unavailable and not reasonably discoverable before issuance of the order"; (2) "[a] change in the law or policy since the date the order was issued relating to an issue essential to the decision"; (3) "[a]n error of law or fact in the order that is essential to the decision"; or (4) "[g]ood cause for further examination of an issue essential to the decision."[13]

An application for rehearing or reconsideration must specify: (a) the portion of the challenged order that the applicant contends is erroneous or incomplete; (b) the portion of the record, laws, rules, or policy relied upon to support the application; (c) the change in the order that the Commission is requested to make; (d) how the applicant's requested change in the order will alter the outcome; and (e) one or more of the grounds for rehearing or reconsideration in OAR 860-001-0720(3).[14] If the application is granted, the Commission may affirm, modify, or rescind its prior order or take other appropriate action.[15]

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12 ORS 756.561(1).
13 OAR 860-001-0720(3).
14 OAR 860-001-0720(2).
15 OAR 860-001-0720(6).

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IV. APPLICATION FOR REHEARING OR RECONSITERATION

A. The Commission did not have statutory jurisdiction to approve changes to rate schedules that had not been filed with the Commission.

The Order commits an error of law by approving changes to rate schedules that were not filed for revision with the Commission.[16] While AWEC raised this concern throughout this docket, the effect and extent of AWEC's concern can now be clearly seen by looking at PGE's compliance filing, which indicates that "approximately 963,000 customers will be impacted by this overall reclassification across *all* customer classes from current prices."[17] The requirement that a rate or schedule be first filed with the Commission before the Commission can approve it is a fundamental tenant of ratemaking. Parties cannot know the impact of a utility's proposal, especially one that impacts all customer classes and the allocation of costs among them, until the impact is implemented through changes to the various components of the tariffs on file. Moreover, a rate revision that affects all or most of a utility's rate schedules, as is the case here, is a general rate revision subject to additional regulatory requirements which were not followed in this case. As such, the Commission should reconsider the expansive scope of its decision in this case.

Under statute, "[e]very public utility *shall file* with the Public Utility Commission . . . schedules . . . showing all rates, tolls and charges . . . for any service performed by it within the state."[18] The utility must then provide notice to the Commission when it proposes to change any

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16 Because PGE first filed proposed revisions to the vast majority of tariffs affected by the Order in its compliance filing, AWEC is concurrently filing a Request for Hearing on those tariffs so that they can be subjected to the required evidentiary scrutiny.

17 PGE Compliance Filing, Cover Letter at 4 (June 3, 2026) (emphasis added).

18 ORS 757.205(1) (emphasis added).

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rate or schedule and such changes "shall be *plainly indicated upon existing schedules*, or by filing new schedules."[19] And further, "[w]henever any public utility files . . . any rate or schedule of rates . . . the commission may. . . determine whether the rate or schedule is fair, just and reasonable."[20] The Court of Appeals describes the Commission process as follows:

> An analysis of the statutory scheme shows that once filed with the Commissioner, tariffs take effect either immediately or on a particular date specified in the tariff. *See*, ORS 757.205 *et seq*. Whenever a new tariff is filed, or when the rates in an existing tariff are changed, the Commissioner may, either upon written complaint from a member of the public or at his own initiative, conduct an investigation and a hearing to determine the propriety and reasonableness of the tariff. ORS 757.210. The Commissioner is empowered to suspend the operation of the tariff for a maximum period of nine months during his investigation, ORS 757.215(1), and the utility bears the burden of establishing that the tariff is reasonable.[21]

The court went on to describe the importance of the filing requirement, which "serves two distinct purposes":

> The first is the function of formality; the nature and effect of tariffs require that they be instituted in a procedurally regular manner, and the filing requirement provides such procedures. The second purpose, and one of paramount importance, is in keeping with the regulatory role of the Commissioner. If the Commissioner is to fulfill his statutory duty of representing the customers "of any public utility . . . and the public generally in all controversies respecting rates . . .," he must have the opportunity to gather the views of the public on rate matters. This opportunity is provided by the public filing and inspection provisions of ORS 757.205(1), 757.220, and 757.240(1) and (2).[22]

Therefore, the filing of a rate or schedule or a change to a rate or schedule that plainly indicates the change upon the existing schedules is a precursor to the Commission's authority to determine whether such a rate or schedule is fair, just and reasonable. The Commission's own rules

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19 ORS 757.220 (emphasis added).
20 ORS 757.210(1)(a).
21 *Fields v. Davis,* 31 Or. App. 607, 612 (1977).
22 *Id.*

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support this interpretation. OAR 860-022-025 provides the "Requirements for Filing Tariffs or Schedules Changing Rates" and specifies that an "energy … utility may make tariff changes by *filing an entirely new tariff or by filing revised sheets which shall refer to the tariff sheets on file*."[23] Stated differently, without the filing requirement, the Commission simply has nothing to review in order to determine the fairness, justness, and reasonableness of the rate or schedule.

In this case, the Commission had no rates or schedules to review aside from Schedule 96 and Rule I, which PGE had attached to its Opening Testimony. The Order incorrectly frames this issue as a matter of notice. Relying on a Court of Appeals decision, the Commission concludes that "notice does not need to be given to all customers who might be impacted by a Commission action on a tariff"[24] and that, in any event, "the issues list gave notice that . . . all customer classes were within the scope of these proceedings."[25] However, this is where the Commission Order errors as a matter of law. The issue is not only about who is entitled to notice and whether notice was sufficient, but also whether the Commission had jurisdiction to make a finding that a rate or schedule was "fair, just, and reasonable" under ORS 757.210. It simply cannot make that determination without the necessary precursor under ORS 757.220 that changes be *plainly indicated upon existing schedules*, or by filing new schedules with the Commission.

PGE's compliance filing illustrates the problem. While PGE's Opening Testimony presented a table with percentage rate impacts for all customer classes as a consequence of

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23 OAR 860-022-0025(1) (emphasis added).

24 Order No. 26-154 at 70 (*citing Low-Income Consumers Union v. Oregon Pub. Util. Comm'n,* 150 Ore. App. 491, 496 (1997).

25 *Id.* at 6.

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implementing the PGM,[26] no party, the Commission, or any customer had any notion of *how* those impacts would be effectuated. Particularly for large customer classes, it matters whether those impacts are reflected as changes to their energy rates, distribution charges, transmission charges, the basic charge, or the system usage charge because each charge affects customers differently depending on how they operate their facilities. Residential customer advocates have previously objected to PGE modifying the basic charge for these customers and, while PGE is not doing so in its compliance filing, there was nothing in the record to demonstrate that this would be the outcome.[27] How PGE planned to actually implement the rate changes it proposed was a mystery to everyone until the Company's compliance filing. The Commission could not legally conclude that the changes it ordered to PGE's tariffs were fair, just, and reasonable before it had ever had a chance to review those changes.

The compliance filing reveals a further legal infirmity in the Commission's process in this case, which is that it should have been noticed and docketed as, and followed the Commission's rules governing, general rate cases. A general rate revision is a "filing by an energy or large telecommunications utility which affects all or most of a utility's rate schedules."[28] That is clearly the case here, in which PGE's compliance filing revises the rates for every customer class as well as numerous rider schedules. A comparison of PGE's initial filing in UE 435, its last general rate case, with the compliance filing in this case reveals that PGE's compliance filing modifies even more tariffs than the Company proposed to modify in its

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26 PGE/100, Ferchland-Barrow/24 (Table 6).
27 *See, e.g.,* Docket UE 435, Exh. CUB/300, Wochele-Jenks/5:10-19.
28 OAR 860-022-0017; *see also* OAR 860-022-0019

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last rate case.[29] General rate revisions are subject to special regulatory requirements. With the filing of new or revised tariff schedules in a general rate revision, the utility must provide testimony and exhibits, work papers, an executive summary, responses to standard data requests, and a motion for protective order if needed,[30] and it must also make special announcements to its customers.[31] Further, the Commission uses the docket designation "UE" to clearly signify when a docket is an "Electric Rate Case,"[32] and "[i]n cases where one party carries the burden of proof, such as rate cases, the parties typically file sequential briefs, so that the party with the burden has the last opportunity to present argument."[33] So, while the Commission has broad statutory jurisdiction to investigate any matter relating to a public utility,[34] such an investigation is a distinct statutory and regulatory mechanism from the formal requirements of a rate proceeding or a general rate revision.[35]

Given that the Commission did not have the statutory discretion to make a "fair, just and reasonable" finding on any schedules that had not yet been presented to it, AWEC respectfully requests the Commission modify the order in the following ways:

- To broadly limit the scope of the Commission's fair, just and reasonable findings to only rates and schedules that had been filed with the Commission (Schedule 96 and Rule I)[36];

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29 *Compare* PGE's compliance filing *with* Docket No. UE 435, Advice No. 24-06 (Feb. 29, 2024).
30 OAR 860-022-0019
31 OAR 860-022-0017.
32 Oregon Public Utility of Commission, Docket Designations available https://www.oregon.gov/puc/filing-center/Documents/DocketDesignations.pdf (last accessed June 25, 2026).
33 *In re Pub. Util. Comm'n of Or., Amending Internal Operating Guidelines*, Docket No. UM 2055, Order No. 20-389, Appendix A at 19 (Oct. 27, 2020).
34 ORS 756.515.
35 *See* ORS 757.205-269.
36 Specifically, section V.A of Order No. 26-154 should be modified to limit the scope of the "fair, just and reasonable" findings so as to not apply to Schedules 89 and 90 (and all other schedules not yet filed with

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- To remove the finding that the "suite of provisions" adopted "fairly allocate cost to those causing them and incentivize large loads to reduce their impact on the grid from the first moment of site design,"[37] or alternatively limit the finding instead to only whether the changes to Schedule 96 and Rule I fairly allocate costs to the customers impacted by those tariffs;

- To remove the finding that PGE's proposed changes to Schedules 89 and 90, to add a demand charge instead of a volumetric charge for fixed generation as "just and reasonable"[38];

- To remove the finding that the peak growth modifier (as modified in the Order) "fairly allocate[s] growth-related costs investments among customer classes,"[39] or alternatively to limit the finding to only the Schedule 96 customer class;

- To remove the finding that transmission direct assignment "fairly allocate[s] transmission costs,"[40] or alternatively to limit the finding to only Schedule 96; and

- To remove any other instances where the Order makes a "fair, just and reasonable" determination as to the allocation of costs among all customer classes or proposed changes to Schedules not yet filed.

The requested changes will alter the outcome of this proceeding to result in the Commission only making a "fair, just and reasonable" determination as to the schedules that were properly filed with the Commission under ORS 757.220. Specifically, the scope and effect of the fair, just, and reasonable findings would be limited so as to only apply to Schedule 96 and Rule I. Any findings regarding a fair, just, and reasonable *allocation* of costs among *all* customer classes or any findings that changes to other rate schedules are fair, just, and reasonable would be eliminated and deferred to a future proceeding once PGE properly files the applicable

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the Commission) and section V.J.4. so as to direct that any ratemaking treatment changes beyond that required for the schedules filed (96, and Rule I) be deferred until PGE's next general rate case.

37 Order No. 26-154 at 2.

38 *Id.* at 14.

39 *Id.* at 20.

40 *Id*. at 32.

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schedules. As such, AWEC requests reconsideration of the Order in order to correct the errors of law reflected therein.

B. The Commission committed legal error in approving minimum demand charges for Schedules 89 and 90.

The Commission should reconsider its decision to authorize minimum demand charges for Schedules 89 and 90. It was an error of law unsupported by substantial evidence and findings in the record for the Order to authorize a minimum transmission demand ("MTD") at 80% for Schedule 89, an MTD at 90% for Schedule 90, and also a minimum generation demand ("MGD") for Schedule 90.

As noted above, the Commission allowed the current version of Rule I to go into effect at a Public Meeting in UE 430 and only on a temporary basis subject to the evidentiary decisions that were deferred to this proceeding.[41] In other words, the Commission in UE 430 never made a final determination based on record evidence that minimum demand charges at any level were just and reasonable for any customer class – that determination was intended to be made in this docket, UM 2377.

Nevertheless, the Order adopts the temporarily approved Rule I in UE 430 as the baseline against which modifications to Schedule 89 and 90 rates and requirements are determined, rather than making the necessary threshold evidentiary determination that the version of Rule I temporarily approved in UE 430 is itself fair, just and reasonable. This necessary first step is entirely absent from the Order. Thus, regarding Schedule 89, the Order finds that "[t]here is a

[41] UE 430, Order No. 25-091 at 1 (as corrected by Order No. 25-097 and Order No. 25-101) (Mar. 6, 2025) ("We will initiate contested case process(es) to ensure that the scope of issues that have been raised during this proceeding are appropriately examined.").

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dearth of evidence in the record [] regarding the appropriateness of either *increasing* Schedule 89 customers' MTD from 80 to 90 percent or adding an MGD of any amount for these customers …."[42] Due to this lack of evidence, the Order does not "increase" the MTD or add an MGD for Schedule 89 customers,[43] but the Commission cites to no evidence that would justify imposing an 80% MTD charge on Schedule 89 in the first instance and makes no findings as to the same. In fact, it finds that the record contains a "dearth" of such evidence. This necessarily leads to the conclusion that minimum demand charges should be wholly removed from Schedule 89 as there is, by the Commission's own admission, no record evidence to support such charges.

Regarding Schedule 90, the Order finds that a 90% MTD and MGD are "appropriate," but, again, the Order cites to no record evidence to support its conclusion. First, the Order notes that the POWER Act provides a specific statutory basis to impose minimum demand charges on data centers and that data centers should not "result in, or have the potential to result in, increased costs or unwarranted risk to other retail customers."[44] The Order acknowledges that this statutory scheme does not apply to Schedule 90 customers who are now necessarily not data center customers.[45] While the Order finds appropriately that the Commission has a general statutory obligation to ensure just and reasonable rates and that protecting unwarranted cost shifting is necessary to ensure rates are just and reasonable, the Order does not reason why those obligations justify imposing minimum demand charges on Schedule 90 customers. The Commission has established just and reasonable rates for Schedule 90 every time they have come

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42 Order No. 26-154 at 43 (emphasis added).
43 *Id.*
44 Order No. 26-154 at 42 (citing HB 3546 § 5(1)(b)(A)(iv) and quoting § 2(3)(a)).
45 *Id.* at 43.

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up for review and is only now imposing minimum demand charges, but the Order does so without articulating a rational reason for the change. For example, it states that Schedule 90 customers are "sufficiently similar" to data centers to justify the appropriateness of imposing the charges,[46] but the only evidence it points to for this conclusion are Schedule 90's size and load factor requirements. These requirements have remained the same since Schedule 90 was implemented and the Commission has never found that these requirements result in cost shifting to other customers. The Commission must explain any inconsistency with prior agency practice,[47] and simply declaring Schedule 90 customers to be "sufficiently similar" to data center customers that are now governed under a separate statute is evidentiarily inadequate.[48]

Further, the Commission's imposition of minimum demand charges on Schedules 89 and 90 is both arbitrary and discriminatory because it relies entirely on the premise that underutilization (i.e., less than 100% utilization) of resources used to serve these customers causes cost shifting.[49] ORS 757.325 prohibits a public utility from "subject[ing] any particular person or locality to any undue or unreasonable prejudice or disadvantage in any respect" and makes clear that such practices constitute "unjust discrimination."

Here, the record demonstrates that *all* customer classes underutilize resources and, therefore, there is no evidentiary basis to treat Schedule 89 and 90 customers differently from all other customer classes. AWEC's witness, Dr. Kaufman, "investigated 15-minute interval data for 146 substations" over six years and found that across these "876 substation years, there are

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46 *Id.*
47 ORS 183.482(8)(b)(B).
48 Order No. 26-154 at 43.
49 *Id.* (finding that setting the MGD and MTD at 100% would eliminate unwarranted cost shifting).

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[BEGIN CONFIDENTIAL] [redacted] **[END CONFIDENTIAL]** of a substation meeting Staff's minimum demand of 90 percent, and **[BEGIN CONFIDENTIAL]** [redacted] **[END CONFIDENTIAL]** of substations meeting PGE's 80 percent minimum threshold. Across all 146 substations, the average variance was **[BEGIN CONFIDENTIAL]** [redacted] **[END CONFIDENTIAL]** of peak demand."[50] These findings were undisputed. Further, the fact that Schedules 89 and 90 contain customers that are individually larger than residential or small commercial customers is irrelevant because usage patterns are consistent within small customer classes and the load of these classes aggregates to levels at least as high as large customer classes: "Because small customer demand is primarily weather and economy dependent, there is a high correlation in demand across small customers. This means that when one small customer has lower than expected demand due to mild weather, all small customers are expected to have lower demand due to mild weather. Because small customer load aggregates to a similar order of magnitude as large customers … the load shortfall risk of small customers remains high."[51] The Commission ignores this evidence in establishing minimum demand charges for Schedules 89 and 90, and in doing so imposes costs only on these customers without adequately distinguishing them from other customer classes. This decision discriminates against these classes by approving unduly prejudicial treatment.

Thus, while the POWER Act may provide an independent legal basis for implementing minimum demand charges on the data center rate class, that legal basis does not apply to Schedules 89 and 90. The Commission must find that applying such charges to these customer

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50 AWEC/200, Kaufman/19:5-10.
51 AWEC/300, Kaufman/20:12-18.

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classes is evidentiarily supported in a manner that justifies imposing minimum demand charges on these rate classes while exempting other rate classes from similar charges. The record demonstrates, however, that all rate classes underutilize resources that serve them, so such evidentiary support does not exist in this case.

The requested changes will alter the outcome of the proceeding by removing the applicability of the MTD and MGD to Schedules 89 and 90.

C. The Order also erred in imposing an exceedance penalty for Schedules 89 and 90.

The Commission also should reconsider its decision to authorize an exceedance penalty for Schedules 89 and 90. It was an error of law unsupported by substantial evidence to authorize an exceedance penalty for Schedules 89 and 90.

The Order suffers from the same evidentiary infirmities that afflict the Commission's imposition of minimum demand charges on Schedules 89 and 90. Namely, the Order simply carries forward the Rule I language adopted in UE 430 on a temporary basis and without record evidentiary support.[52] UM 2377 is the docket in which PGE was directed to support the imposition of the exceedance penalty *at any level* with adequate evidence, and in which the Commission opted to resolve that issue, and make that "fair, just and reasonable" determination.

On this matter, the Order finds that "no party has justified applying the exceedance penalty to Schedules 89 and 90 customers."[53] Yet, the Order nevertheless directs PGE to "include exceedance penalty provisions consistent with the currently-effective Rule I in

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[52] *In re Portland Gen. Elec. Co., Investigation into New Load Connection Costs*, Docket No. UE 430, PGE Initial Filing at Rule I, Original Sheet No, I-15 (Dec. 20, 2024).

[53] Order No. 26-154 at 47.

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Schedules 89 and 90, resulting in no change from the status quo."[54] The "status quo", however, was never found to be just and reasonable based on an evidentiary record. Without making a threshold determination that exceedance penalties should apply in any form to Schedules 89 and 90 – and no evidentiary basis to make such a determination in this case – the Commission has a legal requirement to eliminate the applicability of these penalties to those schedules, not to simply carry forward the temporarily adopted current language. The Commission should reconsider its decision and eliminate the application of exceedance penalties to Schedules 89 and 90.

The requested changes will alter the outcome of the proceeding by removing the applicability of the capacity exceedance penalty to Schedules 89 and 90 and require PGE to support its applicability in a future rate case.

V. CONCLUSION

For the reasons set forth herein, AWEC requests that the Commission grant this application for reconsideration to correct the errors identified herein.

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[54] *Id.*

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Dated this 6th day of July, 2026.

Respectfully submitted,

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