BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 2377

In the Matter of	)	
PUBLIC UTILITY COMMISSION OF OREGON,	)	THE DATA CENTER COALITION'S APPLICATION FOR REHEARING OR RECONSIDERATION OF ORDER NO. 26-154
Investigation into Marginal Cost Study Treatment of Costs for Large Customers and Further Modifications to Portland General Electric Company's Rule C and Rule I	)	

I. INTRODUCTION

Pursuant to ORS 756.561 and OAR 860-001-0720, the Data Center Coalition ("DCC") respectfully requests rehearing or reconsideration of the Public Utility Commission of Oregon ("OPUC" or "Commission") Order No. 26-154 ("Final Order") building upon previous changes to the Portland General Electric Company ("PGE" or "Company") tariff for large load customers, including implementing House Bill 3546 ("HB 3546") for data center customers.

Reconsideration is warranted because several portions of the Final Order contain essential errors of law and fact, or at a minimum present good cause for further examination of essential issues. The challenged provisions do not merely assign demonstrable costs to customers that cause them; they can delay or condition utility service, impose charges that are not tied to cost causation, convert statutory caps into mandatory minimum charges, and allocate costs using standards that are insufficiently objective and insufficiently supported by the record. In several instances, the Final Order also leaves essential details unresolved, making the adopted requirements difficult for parties to review, difficult for the Company to implement, and difficult for affected customers to understand or challenge.

In particular, DCC requests rehearing or reconsideration of:

- The separate interconnection queue for Schedule 96 and its service-condition framework, which impermissibly alters the HB 2021 statutory design and was opposed by PGE as unlawful, unclear, and inconsistent with the Company's obligation to serve;
- The unexamined day-one cost exposure created by the new contract-term and exit-fee requirements, whereby a new 225 MW data center would face more than $1.5 billion in financial obligations before taking any service[1];
- Whether the Company's current direct access cap provides a meaningful path to direct access for data centers, particularly in light of the additional requirements adopted in UM 2024 on the same day as the Final Order;
- The 1-cent/kWh surcharge and the mandatory maximum Public Purpose Charge ("PPC") treatment, which exceed the statutory requirements established by HB 3141;
- The increased minimum billing requirements and punitive exceedance charges, which exceed cost-shifting concerns and operate more like guaranteed rate recovery that risks over-collection;
- The unclear "growth-based" standard for the Company's Peak Growth Modifier ("PGM"), which will shift cost allocation indefinitely without resolving how growth-related assets will be identified, how disputes will be resolved, or when growth-based treatment should end;
- The new reporting requirements, which intrude upon confidential and commercially sensitive customer information; and
- The unprecedented compliance timing, which is inconsistent with statutory notice requirements and raises unique implementation issues.

[1] $1.5 billion includes minimum obligations alone and therefore understates the full exposure. DCC requests the Commission require PGE to verify these calculations and provide a complete estimate of the day-one contractual, tariffed, and exit-fee exposure that would apply to new Schedule 96 customers.

The Commission need not revisit every issue resolved in the Final Order to grant meaningful relief. DCC recommends targeted modifications or clarifications that would preserve the Commission's cost-shift prevention objectives while correcting the specific legal and factual defects described below. Critically, however, any targeted corrections must be considered against the backdrop of the Final Order's overall cumulative effect. Absent modification, the combined weight of the new requirements will drive new data-center development outside of the Company's service territory, depriving PGE customers of the benefits associated with that development and leaving the Commission with no jurisdiction to address the resulting economic and energy-policy consequences.

As Oregon's economic regulator for public utilities, the Commission must provide the leadership and expertise necessary to educate the public, weigh both the risks *and benefits* of new data-center development, and base policy judgments on evidence rather than reacting to talking points or generalized public anxiety. The Final Order does not reflect a balanced inquiry because it identifies and attempts to mitigate perceived risks of data-center growth without meaningfully evaluating the offsetting benefits that such growth can provide to PGE, other customers, local communities, and the state.

Since the Final Order issued, the Governor's Data Center Advisory Committee ("Committee" or "ACDC") has further developed the public record on both risks and benefits associated with data-center development. That record reads very differently from the record in this case and does not support a one-directional assumption that data centers only impose costs. The Committee's charge is to identify ways to pursue economic development opportunities while keeping utility costs, infrastructure investments, and environmental impacts sustainable and equitable, particularly for low-income and working families.[2] That charge appears to align with the Commission's goals as stated in the Final Order.

The Committee materials identify concrete benefits that the Final Order did not meaningfully weigh: PGE itself presented on data-center flexibility, customer-funded batteries, demand response, and

[2] *See* Governor's Data Ctr. Advisory Comm., Committee Charge & Meeting Materials (2026), Or. Dep't of Energy, https://www.oregon.gov/energy/get-involved/Pages/Oregon-Data-Center-Advisory-Committee.aspx.

GridCARE capacity as tools that can support grid reliability and avoid or defer infrastructure. PGE specifically identified a 31 MW/62 MWh onsite battery system owned and paid for by Aligned, a demand-response test with NVIDIA, Emerald AI, and EPRI, and more than 80 MW of additional existing-grid capacity identified through GridCARE.[3]

Other Oregon examples are likewise relevant to good cause for reconsideration. The Committee materials attribute 7,600 new jobs directly related to data centers (and three times that amount in indirect job growth), a substantial increase to Oregon's GDP, property-tax and fee payments in Morrow and Umatilla Counties; improvements to an aquifer storage and recovery system and associated groundwater rights in The Dalles, providing more than 100 million additional gallons of water annually; and Prineville community grants supporting schools, nonprofits, robotics, career and technical education, and local entrepreneurship. These examples do not eliminate the need for cost-shift protections, but they underscore why the Commission should reconsider adopting punitive or service-deterring mechanisms without balancing demonstrable benefits against demonstrable risks.

DCC does not ask the Commission to treat those public examples[4] as dispositive evidence in this contested case. Rather, they reinforce that good cause exists for reconsideration and clarification before implementation of mechanisms that may drive development away from the Company's service territory, thereby depriving some customers and communities in Oregon of access to benefits associated with economic growth while leaving the Commission with no jurisdiction over loads served elsewhere.

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[3] *See* John McFarland, PGE, DCAC Meeting 4 Presentation, Governor's Data Ctr. Advisory Comm. (May 29, 2026), https://www.oregon.gov/energy/get-involved/Documents/06-John-McFarland-PGE-DCAC-05-29-2026.pdf.

[4] Appendix A summarizes information provided to the Governor's Data Center Advisory Committee and other publicly available examples of data-center benefits in Oregon. Since the Final Order issued, the Committee has continued developing the public record on data-center costs, benefits, energy impacts, and policy options. In particular, the Committee's May 29, 2026, energy session occurred after the Final Order and included PGE's presentation identifying potential grid and customer benefits associated with data-center flexibility, customer-funded batteries, demand response, and GridCARE capacity. Appendix A identifies additional benefits associated with data-center development in Oregon, including utility-system, ratepayer, revenue, infrastructure, workforce, tax-base, and community benefits. DCC does not offer Appendix A as a substitute for record evidence in this docket. Instead, Appendix A demonstrates why the Final Order's risk-only framing is incomplete and why the Commission should direct the Company to better quantify customer-caused costs, offsetting benefits, and potential harm to data-center development before applying new Schedule 96 mechanisms.

II. BACKGROUND

On March 7, 2025, the Commission opened this docket to investigate the marginal-cost treatment of costs associated with large customers and to consider further modifications to PGE Rule C and Rule I. The docket arose from increasing concern that new and expanding large-load customers, including data centers, may require substantial generation, transmission, distribution, and interconnection investments, and that existing rate structures may not adequately ensure that the costs and risks associated with those investments are assigned to the customers that cause them.

The issues considered in this docket expanded and ultimately included changes to the Company's line-extension and interconnection rules, compliance with House Bill 2021, alignment with House Bill 3546, the need for a separate data-center rate class, modifications to marginal-cost study treatment, and related changes to the allocation of generation, transmission, and distribution costs. The Commission also allowed parties to address energy efficiency, demand response, on-site generation, and other load-management technologies to the extent those issues bore on the adopted issues list.

The Company's proposal sought significant changes to the way costs associated with new large loads would be assigned and recovered. Among other things, PGE proposed creation of a new Schedule 96 for data-center customers, revisions to its Large Load Customer Agreement ("LLCA") requirements, adoption of a Peak Growth Modifier for transmission and generation marginal costs, minimum demand charges for certain large-load customers, direct or class-based assignment of costs associated with serving data centers, and revisions to Rule I governing new connections, line extensions, and system upgrades. PGE further proposed that the Commission require a compliance advice filing so that any approved changes could be implemented prospectively before the Company's next general rate case.

After development of the record, the Commission issued the Final Order on May 7, 2026. The Final Order resolved the pending issues in the docket and adopted the parties' partial stipulation. It also directed PGE to submit a compliance filing by June 3, 2026, with rates and tariff changes to become effective June 10, 2026.

On June 3, 2026, the Company filed Advice No. 26-24 to comply with Order No. 26-154 (the "Compliance Filing").[5] The Compliance Filing proposed to create Schedule 96, Data Center Standard Service, along with associated direct-access variations; revise large nonresidential Schedules 89 and 90; create Schedule 111, Targeted Energy Support Program Surcharge; update Rule I; and make related changes to other schedules. The Compliance Filing also proposed updated base rates and power costs reflecting the marginal-cost and growth-allocation methodologies adopted in the Final Order.

The Compliance Filing demonstrates the breadth and immediate effect of the Final Order. It updated more than 175 tariff sheets and affected approximately 963,000 customers. According to the Company's estimates, the Compliance Filing results in a 1.3 percent decrease for residential customers (currently 34 percent of PGE sales) while increasing rates for data-center customers by approximately 29 percent (currently 13 percent of PGE sales).[6] Commission staff ("Staff") subsequently recommended that the Commission suspend Advice No. 26-24 to allow additional review, noting both the breadth and depth of the filing and potential errors identified during Staff's initial review.

Subsequently filed public comments from stakeholders urge the Commission to open a separate docket to determine how Schedule 111 funds should be administered. Those comments explain that the stakeholders who supported the new surcharge had contemplated administration by the Energy Trust of Oregon, not PGE, because the Company did not support the creation of the surcharge, and that significant questions remain unresolved beyond the identity of the program administrator.[7]

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[5] PGE Advice No. 26-24 (June 3, 2026); PGE Errata to Advice No 26-24 (June 30, 2026); PGE Errata to Advice No. 26-24 (July 2, 2026).

[6] John McFarland, PGE, Data Center Advisory Committee Presentation 2 (May 29, 2026), https://www.oregon.gov/energy/get-involved/Documents/06-John-McFarland-PGE-DCAC-05-29-2026.pdf.

[7] Public Comments of Climate Solutions, Columbia Riverkeeper, Community Energy Project, Green Energy Institute at Lewis & Clark Law School (July 6, 2026).

III. LEGAL STANDARD

ORS 756.561(1) allows any party to apply for rehearing or reconsideration within 60 days after service of a Commission order and authorizes the Commission to grant relief if "sufficient reason is made to appear."[8]

OAR 860-001-0720 implements that statutory standard. The rule requires an application to identify: (a) the portion of the order alleged to be erroneous or incomplete; (b) the record, laws, rules, or policy relied upon; (c) the change requested; (d) how the requested change will alter the outcome; and (e) one or more grounds for rehearing or reconsideration.[9] The grounds include essential new evidence, a change in law or policy, an essential error of law or fact, or good cause for further examination of an essential issue.[10]

The Commission's reconsideration practice confirms that the application should be issue-specific and should connect each alleged error to an outcome-altering requested change. In UE 335, for example, The Alliance of Western Energy Consumers ("AWEC") sought reconsideration under ORS 756.561 and OAR 860-001-0720 based on alleged essential errors of law, including inadequate findings, discriminatory treatment, and unsupported stipulation approval. AWEC framed the rule as requiring two showings: an error of law and that the error was essential to the decision.[11]

More recent Commission practice is consistent but highlights additional optionality for the Commission to consider in this case. In UM 2371, NewSun filed an application for rehearing or reconsideration that identified the order provisions alleged to be incomplete, the legal standards allegedly omitted, the requested change, and why the change would alter the outcome. The Staff Report recognized that the Commission may choose to take up reconsideration when there is something in the prior order that it wishes to clarify or correct.[12]

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8 ORS 756.561(1). The Commission may also "rescind, suspend or amend any order" upon notice to the utility and after the opportunity to be heard. ORS 756.568.

9 OAR 860-001-0720(2).

10 OAR 860-001-0720(3).

11 Docket No. UE 335, Application for Reconsideration and Rehearing at 1-6, 14-5 (Feb. 12, 2019).

12 Docket No. UM 2371, Administrative Hearings Division Staff Report at 4 (Nov. 5, 2025).

This application follows this structure and seeks relief under OAR 860-001-0720(3)(c) and (d): essential errors of law or fact and good cause for further examination of essential issues. To the extent the Commission concludes that any issue requires additional process rather than immediate modification, DCC requests rehearing or a limited supplemental process before the challenged requirements are implemented or applied to affected customers.

Oregon appellate precedent confirms that the Commission's discretion is broad but bounded. The Commission may not misinterpret or misapply governing statutes, and a charge or tariff mechanism must be supported by substantial evidence and substantial reason.[13] *Calpine* is particularly relevant because it involved a cost-shift-prevention mechanism; the court did not reject cost-shift prevention, but required evidence supporting the specific calculation adopted.

Specific statutory limits also constrain general ratemaking authority.[14] Those cases are relevant here because HB 3546 authorizes cost-shift mitigation; it does not authorize the Commission to convert statutory caps into mandatory charges, condition tariffed service on customer-specific HB 2021 resource plans, or impose non-cost-based public-benefit funding obligations.

The Commission's own reconsideration precedent also supports targeted relief. In Order No. 19-128, the Commission granted reconsideration in part to clarify factual findings in a direct-access proceeding and recognized that unwarranted cost shifting requires both evidence of cost shifting and a legal determination that the shift is unwarranted. In Order No. 23-477, the Commission granted reconsideration in part to prevent significant disparate impacts on small business customers where new information and a narrow fix supported good cause. In Order No. 25-218, the Commission amended a prior order to preserve procedural flexibility and ensure contested issues would be addressed through an

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[13] *See Calpine Energy Sols. LLC v. Pub. Util. Comm'n of Or*., 298 Or. App. 143, 445 P.3d 308 (2019) (reversing and remanding OPUC approval of a direct-access opt-out charge where the reasonableness of the charge calculation lacked substantial evidence).

[14] *See Citizens' Utility Bd. v. Pub. Util. Comm'n,* 154 Or. App. 702, 962 P.2d 744 (1998) (general authority did not permit approval of rates contrary to specific statutory limits); *Utility Reform Project v. Pub. Util. Comm'n*, 215 Or. App. 360, 170 P.3d 1074 (2007) (remanding where the Commission's order rested on an erroneous legal premise).

appropriate process. Those orders support the targeted approach requested here: clarify, narrow, or defer the challenged provisions without abandoning cost-causation protections.

The procedural posture of this case heightens the need for that targeted approach. UM 2377 was opened as an investigation into marginal-cost treatment and potential modifications to PGE's Rule C and Rule I; it was not a general rate case or a fully noticed tariff filing in which the utility applicant bore the traditional burden to justify a complete set of tariff sheets and rates. That investigative posture permitted the Commission to evaluate policy options, but it did not permit the Commission to adopt stakeholder proposals materially broader than PGE's supported proposal without independent evidence showing that the additional requirements were necessary, proportional, and cost-based. Where the Commission concluded that additional quantification was needed, the appropriate remedy was to direct the Company to provide that information through a supplemental process, compliance filing, or future general rate case—not to impose unsupported mandatory requirements and defer the evidentiary work until later.

IV. ARGUMENT

The Commission's order addresses important cost-shift risks associated with large new loads, and DCC does not ask the Commission to abandon cost-causation principles; however, a one-sided record that treats data centers only as imposing cost-shifting threats does not support tariff mechanisms that impose extraordinary, subclass-specific obligations without also considering offsetting system, customer economic, or operational benefits.

To be clear, the Final Order's central legal defect is not that it seeks to prevent cost shifting. The defect is that it repeatedly moves from generalized concern to mandatory, subclass-specific obligations without the evidentiary bridge required by ORS 757.210, HB 3546, and substantial-evidence principles. In some places, the Commission recognized that the record was incomplete and deferred issues to a future general rate case or further study; in others, it imposed immediate requirements despite conflicting evidence, difficult-to-quantify impacts, undefined causation standards, or unresolved implementation

mechanics. That inconsistent treatment is itself good cause for reconsideration under OAR 860-001-0720(3)(d).

As described in more detail below, the challenged provisions go further than cost responsibility. They can restrict service access, impose non-cost-based charges, transform statutory caps into mandatory charges, and lock in allocation results using standards that require further explanation and safeguards. Those are essential issues under OAR 860-001-0720. DCC therefore respectfully requests that the Commission grant this application and modify, clarify, or rehear the Final Order.

At minimum, the Commission should direct PGE to quantify both sides of the ledger before the most consequential Schedule 96 requirements are applied. PGE is the entity with the best access to information regarding load forecasts, interconnection needs, system constraints, customer-funded batteries, flexible-load opportunities, GridCARE capacity, grid-enhancing technologies, rate impacts, fixed-cost spreading, incremental revenues, and whether generation, transmission, or distribution investments initially associated with Schedule 96 customers can later be repurposed for other customers or broader system needs. A Commission-directed PGE filing would allow the Commission to preserve cost-causation protections while testing whether the cumulative package adopted in the Final Order is necessary or instead deters development that could provide net benefits to PGE customers and Oregon communities.

A. The Separate Interconnection Queue for Schedule 96 and Its HB 2021 Service-Condition Framework Require Reconsideration or Clarification

A distinct interconnection queue for data centers was rejected by the Company as discriminatory and largely unaddressed on the record; to that end, the Final Order did not benefit from a record to clearly define how the Company will determine when a "reliable plan of service" exists, how HB 2021 compliance will be measured for data center customers, or when a queue-based delay becomes an unlawful denial of service. That lack of clarity matters because the new queue will affect not only cost allocation, but also the timing and availability of service itself for new data center customers.

1. Portion of the Order Challenged

DCC challenges the portions of the Final Order that adopt or approve a separate Schedule 96 queue and any related framework that prevents, delays, or conditions service until PGE establishes a plan of service that matches the customer's scale-up plan and does not impede PGE's HB 2021 obligations.[15]

2. Law, Record, and Policy Relied Upon

The POWER Act gives the Commission authority to prevent cost shifting from very large loads to other customers. It does not eliminate the Company's obligation to provide just, reasonable, and nondiscriminatory service, and it does not authorize PGE or the Commission to convert HB 2021 compliance into a customer-specific condition precedent to service. The Final Order appears to rely on HB 2021 compliance and resource-sufficiency concerns to justify a separate queue that can have the practical effect of delaying or denying service for one customer class.[16]

The Final Order states that Schedule 96 customers in the queue "will not be served" until PGE establishes a reliable plan of service matching the load scale-up plan and not impeding HB 2021 compliance.[17] It then states that the queue is not a denial of service because customers may move forward by establishing a plan of service and because the delay is only "potential."[18] That reasoning does not resolve the legal problem; it confirms it. A tariff condition that withholds energization until the utility identifies an acceptable emissions-compliant resource plan can function as a denial of service when the Final Order contains no objective criteria, maximum timeline, customer cure right, or remedy when delay results from PGE's own procurement or planning constraints.

The Commission's rationale in the Final Order appears inconsistent with its prior "speculative load" discussion. In UE 433, the Commission rejected PacifiCorp's proposed tariff language that would have allowed it to identify certain loads as speculative and deny service. The Commission found that PacifiCorp had not met its burden of proof to show the tariff change was reasonable and stated that it

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15 *See* Order No. 26-154 at 62-4.
16 *See* Amazon Opening Brief at 9-10 (Feb. 4, 2026); Order No. 26-154 at 61-4.
17 Order No. 26-154 at 63.
18 *Id.* at 64.

"favor[ed] the view" that such a tariff provision would conflict with PacifiCorp's obligation under ORS 757.020 to serve requested load in its service territory.[19] As the Commission explained, "the situation presented here would give PacifiCorp too much unilateral discretion, pose too large a risk of discrimination, and have too significant a consequence for the customer to be an appropriate general limitation on the obligation to serve."[20] In that case, the Commission seemed to be looking for, at minimum, clear criteria, limited discretion, nondiscriminatory application, and a record showing why the limitation is necessary and reasonable.

3. Grounds for Reconsideration

The queue framework is an essential error of law or fact because it moves beyond cost responsibility and into customer access. A tariff may establish reasonable service rules, engineering requirements, contribution obligations, and timelines. But a separate queue that withholds service based on whether the Company can procure or designate emissions-compliant resources for a customer's load raises a materially different question: whether the Commission has authorized discriminatory access to utility service or delegated to PGE an open-ended ability to defer energization based on broad clean-resource-planning or pricing concerns.

The Final Order does not make sufficiently specific findings showing why existing interconnection, line-extension, special-contract, integrated resource planning, and clean energy planning processes are inadequate to manage the identified risk. Nor does it identify objective queue criteria, maximum timelines, customer cure rights, or a remedy when the Company's own planning or procurement constraints are the cause of delay. Without those limits, the queue can operate as an unlawful service barrier rather than a cost-causation tool.

The Order's treatment of flexibility underscores the gap. On the one hand, it rejects a fast-track queue for flexible loads because Staff concluded the record was insufficient to establish criteria for when

19 *Id.*
20 *Id.*

load would qualify and PGE argued that its existing system-capacity process already accounts for customer-provided flexibility.[21] On the other hand, the same Final Order relies on flexibility as an element of a plan of service that can allow energization.[22] The Commission should not use an undefined flexibility concept as a condition of service while simultaneously finding the record insufficient to define flexibility for queue treatment.

The queue also conflicts with HB 2021's statutory design. HB 2021 places emissions-reduction obligations on utilities and other retail electricity providers, not on individual tariffed customers. Where compliance cannot be achieved without affecting reliability or fair, just, and reasonable rates, HB 2021 provides specific statutory safety valves, including the temporary exemption process in ORS 469A.440 and the compliance cost-cap process in ORS 469A.445. Those statutory offramps confirm that the legislature addressed utility compliance difficulty directly; it did not authorize PGE or the Commission to shift HB 2021 compliance costs or risk to one customer class by delaying or conditioning tariffed service.

The queue is also inconsistent with the record developed after the Final Order through the Governor's ACDC. PGE's presentation identified customer-funded batteries, demand response, and GridCARE capacity as real grid-support tools. Those examples support a framework that credits demonstrated customer flexibility and infrastructure contributions, not an open-ended service barrier tied to generalized HB 2021 compliance concerns.

4. Requested Change and Effect on Outcome

DCC requests that the Commission rescind the separate queue or, at minimum, modify the Final Order to state that: (1) HB 2021 compliance may not be used as a customer-specific condition precedent to service; (2) the Company must process Schedule 96 requests under objective, nondiscriminatory criteria; (3) any delay must be supported by facility-specific reliability or engineering findings, not generalized clean-resource or price concerns; and (4) any special-contract review must compare resource

21 *Id.* at 65.
22 *Id.*

options without requiring the customer to provide non-emitting resources as a condition of tariffed service. This change would alter the outcome by preserving service access while retaining the Commission's ability to assign demonstrated costs to the customers that cause them.

B. The Commission Should Reconsider the Unexamined Day-One Exposure Created by the 30-Year Contract Term and Exit Fee Requirements

The immediate, day-one contractual exposure for new data center customers was never meaningfully examined on the record, and the Commission's approach does not appear to reasonably comport with its stated objective of preventing cost shifting. Requiring a 30-year service commitment and exit-fee obligations in excess of $1.5 billion at the outset of service imposes unprecedented liability before the customer's actual load, ramp schedule, facility use, or cost responsibility is known. Nothing in the record suggests the Company's actual unrecovered, customer-caused costs would approach that amount, and imposing guaranteed rate recovery of that magnitude on a single subclass of customers is neither cost-based nor equitable. The Commission's approach is materially different from protecting other customers against proven cost shifting, and the record does not address whether such up-front exposure is necessary, cost-proportional, or consistent with just and reasonable service terms.

1. Portion of the Order Challenged

DCC challenges the portions of the Final Order adopting or authorizing a 30-year contract term, along with exit fees, and related long-term service obligations for Schedule 96 customers.[23] DCC also challenges the Order to the extent it allows those requirements to apply without clear limits tying any exit fee to actual, unrecovered, customer-caused costs.

2. Law, Record, and Policy Relied Upon

The POWER Act permits the Commission to adopt measures that prevent inappropriate cost shifting from large-load customers to other customers. But that authority is not unlimited. Any tariff term

[23] *See id.* at 35-6, 48-50.

adopted under that authority must remain just, reasonable, non-discriminatory, and grounded in cost causation.

A 30-year term with exit-fee exposure creates a substantial risk that Schedule 96 customers will be bound to service terms, load forecasts, and cost-recovery assumptions that may become obsolete long before the end of the contract. That risk is especially significant for data centers, where business needs, tenant demand, technology, energy efficiency, computing density, direct-access strategy, and locational requirements may change materially over time. If a customer reduces load, improves efficiency, restructures operations, or transitions to a different supply arrangement, the tariff should not impose charges that exceed the Company's actual unrecovered costs.

The Final Order adopts terms materially more stringent than proposed by the Company, effectively turning the burden of proof and persuasion on its head. For example, PGE proposed a ten-year minimum term with automatic three-year renewals, explaining that its proposal preserved planning flexibility while protecting other customers against stranded-asset risk through a package of minimum demand charges, exit fees, and make-whole provisions.[24] The Commission instead adopted Staff's escalating contract term, reaching 30 years for loads of 220 MW or greater, along with automatic ten-year renewals.[25] At the same time, the Commission also adopted the Company's system-capacity deposit even though Staff opposed that deposit with long-term contract terms and exit-fee protections.[26]

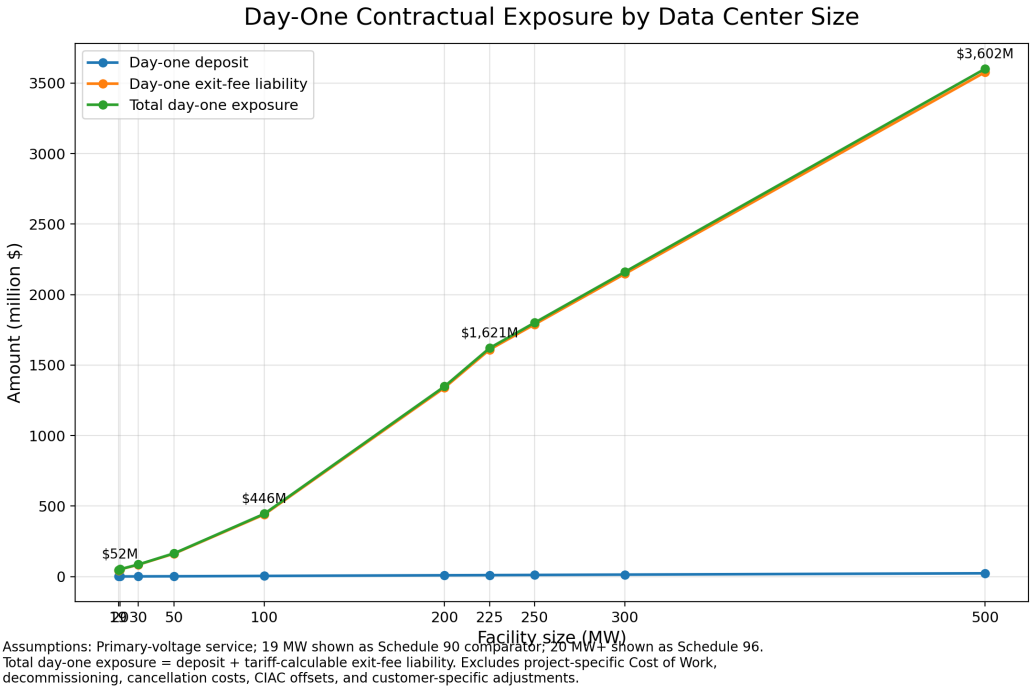
DCC requests the Commission direct PGE to verify the full impact, but provides this illustrative chart:

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[24] *Id.* at 35.

[25] *Id.* at 35-6.

[26] Staff/300, Jones-Hibbert-Wheeler/7, In re Pub. Util. Comm'n of Or., Docket No. UM 2377 (Or. P.U.C. Nov. 3, 2025) (recommending that the Commission "[e]liminate the Capacity Allocation Deposit if Staff's Exit Fee proposal is adopted."); Order No. 26-154 at 44.



The Final Order does not explain why PGE's package was insufficient, why a 30-year obligation is necessary for every data center customer above the size threshold, or why generation and transmission investments initially associated with Schedule 96 load could not be repurposed, reassigned, or credited if they later serve other customers or broader system needs. That omission is especially significant because this docket was an investigation, not a general rate case or tariff filing in which PGE bore the burden to support specific proposed tariff sheets. Where the Commission adopted requirements materially broader than PGE's own supported proposal, the record needed independent evidence demonstrating that the specific obligations adopted were necessary, proportional, and cost-based. The Final Order identifies no such evidence.

The Final Order also does not clearly address how exit fees will interact with other adopted mechanisms. Schedule 96 customers will also be subject to minimum generation and transmission demand charges, flat-billed distribution charges, disproportionate allocation or direct assignment, exceedance penalties, and other contract requirements. Without clear limitations, exit fees could duplicate those mechanisms, create double recovery, or function as a penalty rather than a cost-based charge.

The exit fee compounds that problem. The Final Order adopted a generation and transmission exit-fee component for loads 20 MW and greater that includes the greater of remaining Minimum Generation Demand ("MGD") and Minimum Transmission Demand ("MTD") charges for the remainder of the contract or three years of MTD and MGD charges at the highest allocated system capacity during the contract.[27] That structure is not limited to actual unrecovered, customer-caused costs and may function as a liquidated rate-recovery guarantee, especially when combined with a 30-year term, 10-year renewals, a 90 percent minimum, flat-billed distribution recovery, deposits, collateral, and direct assignment.

Amazon's position further illustrates the Final Order's unsupported leap: Amazon accepted PGE's exit-fee proposal only in the context of a 10-year minimum term, three-year renewals, and minimum demand charges no higher than 80 percent.[28] The Commission adopted a much more burdensome combined package without explaining why the cumulative result remained just, reasonable, and cost-based.

3. Grounds for Reconsideration

Reconsideration is warranted because the Final Order contains an essential error of law or fact, or at minimum good cause exists for further examination, regarding the necessity and scope of the 30-year term and exit-fee requirements. The Order does not adequately explain why a 30-year commitment is necessary for all covered customers, why shorter or more tailored cost-recovery mechanisms would be inadequate, or how exit fees will be limited to unrecovered costs that are actually caused by the customer.

The Commission should reconsider and clarify that any exit fee must be limited to demonstrable, prudently incurred, unrecovered costs caused by the customer's departure or load reduction; must account for any subsequent use of facilities by other customers or the broader system; must avoid double recovery through rates, minimum demand charges, CIAC, direct assignment, or other tariff mechanisms; and must

27 Order No. 26-154 at 49-50.
28 *Id.* at 49.

include reasonable off-ramps where load changes result from circumstances outside the customer's control or from actions that reduce system costs.

C. The Commission Should Reconsider Whether Schedule 96 Permits a Meaningful Path to Direct Access

While the Final Order nominally preserves direct-access options for Schedule 96 customers, the Commission's current framework does not appear to provide a predictable or practical path for new data center customers to take direct-access service. A direct-access option that exists only on paper does not ameliorate the Final Order's discriminatory and cost-causation concerns.

The Commission should reconsider the combined impact of the Final Order in this case—along with the final order issued on the same day in UM 2024. The combined effect of the separate queue, HB 2021 service-condition framework, long-term contractual commitments and exit-fee exposure, along with minimum demand obligations discussed below ensures that service through the Company remains uneconomic, which exacerbates direct access issues. As a practical matter, the Final Order subjects new data center customers to disproportionate utility-service obligations and costs even where they seek to procure generation supply through the competitive market rather than the Company. At a minimum, the Commission must clarify how data center customers can access direct access given the Company's current caps.

The companion direct-access order issued the same day makes this problem concrete. In Order No. 26-153, the Commission retained PGE's direct-access caps of 300 aMW for Long-Term Direct Access ("LTDA") and 119 aMW for New Load Direct Access("NLDA"), while adopting a waiver process that depends on resource-adequacy and market-participation showings.[29] The Commission acknowledged that it is likely not possible for ESSs to demonstrate participation in a binding regional resource adequacy program at this time.[30] Staff testimony in UM 2024 stated that only approximately 50 aMW remained under PGE's LTDA cap, and NewSun testimony, citing PGE testimony, stated that 117

[29] *Id.* at 1-2, 29-34.
[30] *Id*. at 33.

aMW of PGE's 119 aMW NLDA cap was subscribed. Accordingly, Schedule 96 direct-access variations may preserve direct access in form while making it unavailable in practice for new data-center load.

1. Portion of the Order Challenged

DCC challenges the portions of the Final Order adopting Schedule 96 and related direct-access variations to the extent those provisions do not provide a clear, workable, and non-discriminatory path for data-center customers to obtain direct-access service.[31] DCC also challenges the Order to the extent it allows direct-access customers to remain subject to requirements designed for bundled service, including resource-sufficiency conditions, long-term contractual exposure, minimum demand obligations, exit fees, or other charges that are not tied to PGE's actual delivery-service costs.

2. Law, Record, and Policy Relied Upon

Oregon law permits eligible customers to obtain direct access, and the Commission has historically treated direct access as a meaningful supply option rather than a nominal tariff designation.[32] At the same time, HB 3546 authorizes the Commission to prevent inappropriate cost shifting from large-load customers to other customers. Those objectives can coexist: a direct-access customer may be required to pay cost-based delivery, interconnection, distribution, transmission, and other demonstrable utility-service costs, but it should not be treated as though it is taking bundled utility supply if it is procuring generation service from an Electricity Service Supplier.

The Final Order does not adequately distinguish between costs caused by a data center's use of the Company's delivery system and costs associated with the Company's bundled resource-planning obligations. That distinction is essential for direct access. If Schedule 96 customers remain subject to service restrictions, resource-planning conditions, long-term commitments, exit fees, minimum

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31 *See id.* at 53-4, 64.

32 ORS 757.600–67; OAR ch. 860, div. 38; In re *Alliance of W. Energy Consumers*, Petition for Investigation into Long-Term Direct Access Programs, Docket No. UM 2024, Order No. 26-153, at 1, 4–5 (May 7, 2026) (explaining that Oregon adopted direct access in SB 1149 and that, under direct access, nonresidential consumers may purchase electricity from a certified electricity service supplier at a market-based rate as an alternative to cost-of-service supply from the incumbent utility).

generation-related charges, or other obligations that assume bundled utility supply, the practical effect is to foreclose direct access while formally preserving it.

That result is especially problematic because direct access can mitigate some of the risks the Commission identified. If a customer procures energy and capacity through competitive supply, the Commission should explain why the Company must retain broad authority to delay service based on resource-sufficiency or HB 2021 concerns, or why the customer should remain exposed to bundled-service cost-recovery mechanisms that are not caused by the customer's delivery-service requirements.

3. Grounds for Reconsideration

Reconsideration is warranted because the Final Order contains an essential error of law or fact, or at minimum good cause exists for further examination, regarding whether Schedule 96 provides an actual path to direct access. The Final Order does not adequately explain how a data-center customer can exercise direct-access rights in light of the requirements put in place on the same day as the Final Order. Nor does the Order make findings sufficient to show which UM 2377 requirements are necessary for direct-access customers or tied to costs that the Company incurs to provide delivery service.

Without clarification, the Order risks converting direct access into an illusory option. Critically, most data center customers will not be eligible for direct access due to the Company's cap. Even if a customer is technically or nominally eligible for direct access, they will face new regulatory burdens to obtain direct access service—along with the same practical barriers, contractual exposure, and bundled-resource assumptions that apply to cost-of-service customers. That outcome is not necessary to prevent cost shifting and is inconsistent with just, reasonable, and non-discriminatory service.

4. Requested Change and Effect on Outcome

DCC requests that the Commission modify or clarify the Final Order to establish a meaningful direct-access path for Schedule 96 customers. At minimum, the Commission should clarify whether data centers can become direct-access customers given PGE's cap; whether data center customers will be subject to bundled-resource obligations or generation-related charges except to the extent necessary to

recover demonstrable, unrecovered costs caused by the customer; that HB 2021 compliance may not be used as a customer-specific barrier to direct-access delivery service; that any exit fee or minimum charge must be limited to actual delivery-system costs not otherwise recovered; and that PGE must process direct-access requests under objective, non-discriminatory timelines and criteria.

This change would alter the outcome by preserving the Commission's cost-shift-prevention objectives while ensuring that Schedule 96 does not effectively eliminate direct access for data-center customers.

D. The 1-cent/kWh Surcharge and Mandatory Maximum PPC Treatment are Unsupported and Exceed the Cost-Causation Rationale on this Proceeding's Record

The Final Order adopts a new surcharge for Schedule 96 customers that is difficult to reconcile with the existing statutory framework for public-purpose and energy-efficiency charges. The problem is not just that the surcharge is high or novel; it appears to create an additional mandatory funding obligation for energy-efficiency and customer-supported programs where the legislature has already prescribed the applicable charge and limits.

1. Portion of the Order Challenged

DCC challenges the portions of Order No. 26-154 adopting a 1-cent/kWh surcharge for Schedule 96 customers at or above 100 MW and requiring Schedule 96 customers to pay the maximum public purpose contribution, including during scale-up.[33]

2. Law, Record, and Policy Relied Upon

The proceeding was opened to investigate marginal cost study treatment, cost allocation, and modifications to PGE's Rule C and Rule I for large customers. Cost causation and the POWER Act's cost-shift-prevention purpose are therefore central. PGE, AWEC, Amazon, and DCC opposed or questioned the surcharge and the public-purpose-charge treatment on statutory, evidentiary, duplication, and scope grounds.[34]

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33 *See* Order No. 26-154 at 11-3, 14-20.

34 *Id.* at 13-7 (summarizing party positions on public-purpose charge treatment and surcharge proposals).

3. Grounds for Reconsideration

The Final Order's surcharge rationale appears to rest on the conclusion that very large loads cause real but difficult-to-quantify system impacts and that a new charge can mitigate those impacts by funding non-cost-effective energy efficiency, enabling repairs, and distributed energy resources for energy-burdened customers. That is not a sufficiently direct cost-causation finding to support a mandatory class-specific surcharge. The more attenuated the use of funds is from the facilities, resources, or services required to serve Schedule 96 customers, the more the surcharge resembles a new public-purpose charge rather than a cost-based rate component.

The mandatory maximum public-purpose-charge requirement has a related defect. If HB 3141 or another statute establishes a cap, the Final Order must explain why the Commission may convert that cap into a mandatory charge for Schedule 96 customers before the cap is otherwise reached. The Final Order also must reconcile that treatment with the evidence that customers may not reach the cap during scale-up and with arguments that data centers would be treated differently from other large industrial customers without an adequate statutory or factual basis.

The Final Order's own language confirms the defect. It states that there was "conflicting evidence in the record" regarding the peak demand and capacity factor at which a customer would reach HB 3141's $4 million annual cap, but nonetheless requires all Schedule 96 customers to contribute the maximum amount allowable under HB 3141, including during scale-up.[35] The Commission then justifies the result by invoking equitable contributions and "difficult-to-quantify negative externalities."[36] That is not substantial evidence of a cost caused by Schedule 96 service, and it is not a clear statutory basis to convert an annual cap into a mandatory floor.

Clarification is also necessary because the Final Order does not clearly specify the billing mechanics or overall intended result. Arguably "the maximum amount allowable under HB 3141" must

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35 *Id.* at 16.

36 *Id.*

mean 1.5 percent of electricity revenues rather than $4 million. The statutory problem is that the cap expressly limits collections; it does not necessarily require PGE to charge every >10 aMW Schedule 96 customer the full $4 million, even during scale-up or regardless of actual usage. The statutory structure makes the need for clarification especially important. ORS 757.612 establishes a nonbypassable public purpose charge equal to 1.5 percent of covered retail electricity revenues, subject to large-user caps. The statutory cap limits collections; it does not, by its terms, require a customer to pay the capped amount regardless of actual revenues, usage, ramp schedule, or statutory contribution otherwise due.

The Commission should state whether PGE is directed to bill the statutory maximum regardless of actual usage, true up to the cap annually, apply a monthly minimum designed to reach the cap, or require the maximum only once actual usage would otherwise trigger it. Without that clarification, the compliance tariff could implement materially different obligations under the same Final Order language.

The 1-cent/kWh surcharge has the same legal flaw. The Final Order states that the surcharge is intended to address less direct impacts on equipment and energy costs and to fund non-cost-effective EE, repairs, and distributed resource solutions to reduce the energy burden for vulnerable customers.[37] While those may be laudable public-policy objectives, the Commission did not identify any specific costs, facilities, resources, or measurable impacts caused by Schedule 96 customers that justify a new class-specific charge outside the statutory public-purpose framework. A charge designed to fund broad energy-burden mitigation programs is not transformed into a cost-based rate component merely because data-center growth may create "difficult-to-quantify" system impacts. Under *Calpine*, cost-shift prevention cannot substitute for substantial evidence supporting the specific charge adopted. Without that showing, the surcharge operates as a new public-purpose assessment imposed on one subclass of customers, not as a just and reasonable cost-causation mechanism.

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37 *Id.* at 2.

4. Requested Change and Effect on Outcome

DCC requests that the Commission rescind the surcharge and mandatory maximum contribution requirement, defer those issues to a rate case or separate tariff proceeding with a developed evidentiary record, or narrow them to costs directly caused by Schedule 96 service. This would alter the outcome by removing unsupported, duplicative, or non-cost-based charges while preserving all cost-based mechanisms necessary to prevent cost shifting.

E. The Commission Should Also Reconsider the 90 Percent Minimum Demand Requirements and No-Buffer Exceedance Penalties

The increase to a 90% MGD and MTD with flat-billed distribution charges and increased exceedance penalties impose rigid, punitive terms that may exceed what is necessary to prevent cost shifting. These mechanisms charge customers based on projected or contracted usage rather than actual cost causation, with limited flexibility for ramp-up, forecasting error, or facilities that later provide broader system benefits.

1. Portion of the Order Challenged

DCC challenges the portions of the Final Order adopting the 90 percent minimum demand requirements, along with the flat-billed distribution demand treatment, and exceedance penalties at four times the transmission rate and 1.5 times the generation rate per hour with no exceedance buffer.[38]

2. Law, Record, and Policy Relied Upon

HB 3546 permits minimum demand mechanisms to prevent cost shifting, but the level and application of those mechanisms still must be supported by substantial evidence, must be just and reasonable, and must not be punitive or discriminatory. PGE proposed 80 percent; DCC and others argued that no other class is subject to comparable minimum demand charges; and parties raised concerns about distribution over-recovery, shared facilities, and penalty design.

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[38] *See id.* at 38-44, 45-7.

3. Grounds for Reconsideration

The Final Order does not sufficiently explain why 90 percent rather than 80 percent is necessary for all covered customers, regardless of individual ramp characteristics, energization timing, facility sharing, or operating profile. Nor does it sufficiently explain how a flat distribution charge avoids over-recovery when facilities are shared, later become useful to others, or are not exclusively dedicated to one customer. Finally, the exceedance penalty appears designed in part as an incentive or deterrent. That may be a policy objective, but the specific multipliers and no-buffer design require record support tying them to costs, reliability risk, or a proportional administrative need.

The inconsistency is especially apparent because the Final Order declined to apply similar changes to Schedule 89, citing a "dearth of evidence" regarding the appropriateness of increasing Schedule 89 customers' MTD from 80 percent to 90 percent or adding any MGD.[39] The same evidentiary caution should have applied to Schedule 96 where the Commission increased PGE's proposal by 10 percentage points and layered the increase on top of a new MGD, long-term commitments, exit fees, and deposits.

The exceedance penalty adds another unsupported layer. The Final Order adopts a no-buffer penalty of four times the transmission rate and 1.5 times the generation rate per hour, and then defers the question of how penalty revenues will be treated until a future amortization request when the collections can be better understood.[40] That deferral confirms the cost basis and customer benefit of the penalty were not fully resolved when the penalty was adopted.

The Final Order selected 90 percent not because PGE proved that 80 percent was insufficient, but because 90 percent "balances the difference" between 80 percent and 100 percent.[41] PGE proposed 80 percent, explained that only one peer utility cited had a 90 percent minimum demand charge (and only for customers above 150 MW), warned that setting the Company's minimum demand charge too high could

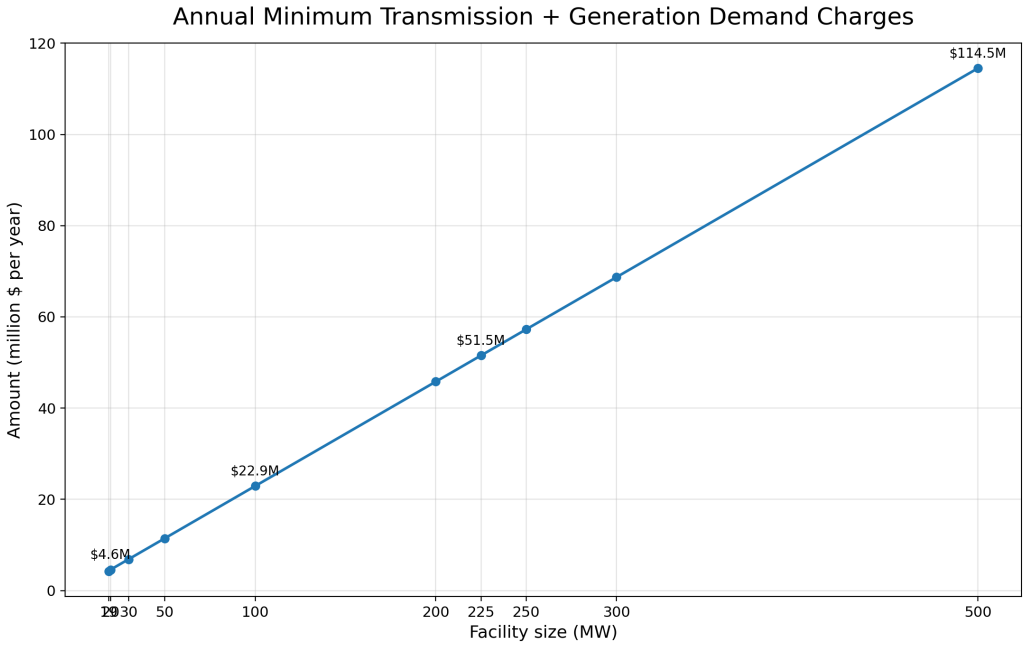
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39 *Id.* at 43.
40 *Id.* at 47.
41 *Id.* at 43.

be unfair, unjust, and unreasonable, and argued that 80 percent better balances cost recovery with the fact that transmission is a system resource.[42] The Final Order never explains why the Company's 80 percent proposal failed to mitigate cost shifting—either as a stand-alone charge or combined with the other adopted protections.

That omission is material because the Commission did not quantify the incremental revenues that Schedule 96 customers would provide under PGE's 80 percent proposal, or the incremental revenues produced by moving from 80 percent to 90 percent. A cost-shift analysis that considers only potential incremental costs, and not incremental revenues, fixed-cost spreading, customer-funded grid resources, or other offsetting system benefits, is not a cost-causation analysis; it is a risk-only analysis.

DCC requests the Commission require PGE to verify these calculations, but provides this illustrative example:



[42] *Id.* at 38, 40.

4. Requested Change and Effect on Outcome

DCC requests that the Commission reduce the minimum demand requirement to the Company's proposed 80 percent unless PGE demonstrates customer-specific need for a higher minimum; require reconciliation, credits, or reassignment where distribution facilities are shared or later used to serve others; and adopt a reasonable exceedance buffer or a cost-based cap. This change would alter the outcome by maintaining customer cost responsibility without imposing unsupported minimums or punitive penalties.

F. The PGM and Growth-Related Allocation Standards Require Objective Limits and Periodic Review

The Company's PGM introduces a major cost-allocation change based on an indefinite and insufficiently objective "growth" concept. The record demonstrates concerns that the PGM will lock in forecast-based allocations for generation and transmission investments without clear limits, adequate evidentiary support, or a reliable mechanism to revisit whether those assets actually continue to serve the growth that previously justified the allocation.

1. Portion of the Order Challenged

DCC challenges the portions of the Final Order adopting the PGM, defining growth-related transmission and generation assets, using test-year forecasts, and treating growth-related allocations as indefinite unless later evidence shows the asset no longer supports growth.[43]

2. Law, Record, and Policy Relied Upon

Cost allocation must be grounded in cost causation and supported by record evidence. AWEC and DCC raised concerns that growth-based allocation represents a significant shift in allocation policy and can produce unintended consequences if based on forecasts or insufficiently objective standards.[44]

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43 *See id.* at 16-29.

44 *Id.*

3. Grounds for Reconsideration (Error or Good Cause)

The Final Order does not sufficiently constrain how assets are classified as growth-related, how long growth-related treatment continues, or how forecasted load is reconciled if projected load does not materialize. An indefinite vintage-tracking framework based on open-ended growth criteria creates a risk that classes are assigned costs based on forecasts rather than actual use or causation. It also invites recurring disputes in compliance filings and rate cases because the criteria are too subjective to administer predictably.

The Final Order adopts PGM allocations indefinitely, meaning that a growth-related asset remains in the PGM until system usage no longer supports the allocation.[45] But the Order does not define what "growth-related" means with enough precision to administer that indefinite allocation. The record reflects several distinct causation concepts: "but-for" causation, primary driver, direct assignment to a single customer, and general growth contribution. Those concepts are not interchangeable.

The Final Order's treatment of "but-for" analysis highlights the problem. The Coalition argued that PGE's own definition of growth-related was a but-for test because it evaluated resources that would not be needed at the same time and scope except for new or incremental load.[46] The Commission declined to require a but-for analysis in IRP proceedings, reasoning that PGM and situs-assigned resources would provide more granular allocation of known costs and that situs-assigned resources would have relatively clear ties to loads.[47] But the Order does not then provide objective criteria for determining when those ties are sufficiently clear.

The Shute/Evergreen discussion shows why additional clarification is needed. CUB and Staff argued that the Shute and Evergreen substations were built for large loads and, according to CUB, did not serve a single residential customer, while PGE has clearly and consistently maintained that those facilities serve diverse customer classes.[48] Rather than resolve the issue with the new standards put in place, the

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45 *Id.* at 20.
46 *Id.* at 28.
47 *Id.*
48 *See id.* at 32.

Commission recognized enough uncertainty to decline immediate direct assignment and directed further investigation.[49] The caution surrounding cost allocation for the Shute and Evergreen substations is inconsistent with adopting an indefinite PGM without objective asset-classification criteria and reconciliation mechanisms. It also highlights Staff's concern that the PGM will result in endless litigation.

To make matters worse, the Company refuted CUB's assertions that residential load was decreasing and stated that analyzing the top 100 hours and top five percent of hours with the highest system load in 2024 resulted in higher allocations to residential customers than 4-CP or 12-CP methodologies.[50] That evidence complicates the Final Order's repeated assumption that each data-center-specific allocation reform protects residential customers from cost shifting. It also demonstrates why new allocation methodologies should be evaluated with evidence in a rate case rather than presumed protective.

4. Requested Change and Effect on Outcome

DCC requests that the Commission modify the Final Order to require objective asset-classification findings, a periodic review or sunset for growth-related treatment, reconciliation when forecasted load fails to materialize, and express safeguards against locking in allocation results based on stale forecasts. This would alter the outcome by preserving growth-related allocation where supported while preventing indefinite, unsupported cost assignments.

G. Direct Assignment of Transmission Assets Should be Clarified to Prevent Double Counting and Network Benefit Overreach

The Commission's direct-assignment approach appears vulnerable because it treats some transmission and distribution facilities as customer-specific even though those assets may be integrated into the broader utility system and provide network benefits over time. The concern is that direct assignment could overcharge individual customers, create double-counting risk, and leave too much unresolved discretion over when a facility is truly "single-customer" rather than system-serving.

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49 *Id.* at 34.

50 *See id.* at 34.

1. Portion of the Order Challenged

DCC challenges or seeks clarification of the portions of Order No. 26-154 addressing direct assignment of transmission assets built to serve a single customer.[51]

2. Law, Record, and Policy Relied Upon

Direct assignment may be appropriate for dedicated, single-customer facilities, but transmission facilities can be networked and can provide systemwide benefits. PGE and AWEC raised variants of these concerns, including double counting and tension with broader transmission-cost principles.

3. Grounds for Reconsideration

The Order should clarify the boundary between single-customer facilities and network facilities. Without that clarification, implementation may assign costs directly to a customer even when facilities provide broader system benefits or when the same facilities are also reflected in growth modifiers, base rates, or future allocation mechanisms.

The Final Order resolves double counting by assuming that single-customer facilities will be directly assigned while multi-customer facilities will be allocated through the PGM. But that assumes the very fact the record disputed: that transmission assets can be cleanly and permanently sorted into single-customer and multi-customer buckets. It is axiomatic that residential customers in constrained areas of Portland will benefit from transmission expansion and/or improvements outside their own neighborhood just as customers in Salem benefit when additional capacity is created to relieve congestion near Portland. The Commission should clarify whether direct assignment requires exclusive use, but-for causation, primary causation, or some other showing, how later system use may trigger reclassification or removal from customer-specific treatment, and whether refunds or credits are applicable.

Clarification is also needed because the Final Order's exit-fee and minimum-demand framework includes generation and transmission charges that already recover costs associated with service to the

[51] *See id.* at 30-1.

customer. Without an objective boundary between direct assignment, PGM allocation, minimum charges, deposits, and exit fees, the same risk can be secured or recovered multiple times over.

The Commission should also clarify whether any directly assigned facility must be credited, reclassified, or removed from customer-specific treatment if it later provides material network benefits, supports contingency operations, relieves congestion, or serves additional customers. Without that clarification, a customer may pay for an asset as if it were dedicated even after the asset becomes part of the integrated system used to provide broader service.

4. Requested Change and Effect on Outcome

DCC requests that the Commission clarify that direct assignment applies only to facilities demonstrably built solely for one customer, excludes facilities with material network benefits, and must include safeguards against double counting. This would alter the outcome by preventing over-recovery and preserving cost-causation discipline in implementation.

H. The Commission Should Reconsider or Clarify the Reporting Requirements to Protect Confidential Customer Information

The Final Order should also be reconsidered or clarified because the adopted reporting requirements may require disclosure of highly sensitive commercial, operational, and infrastructure information without adequate confidentiality protections. Data center load forecasts, ramp schedules, facility plans, tenant demand, energy-procurement strategies, direct-access plans, and interconnection timing are competitively sensitive and can reveal confidential business information, security-sensitive infrastructure information, and customer-specific development plans. The Commission's cost-shift-prevention objectives do not require public disclosure of that information.

1. Portion of the Order Challenged

DCC challenges the portions of the Final Order adopting customer-specific reporting, compliance, or information-sharing requirements for Schedule 96 customers to the extent those

requirements require disclosure of confidential customer information without clear protections.[52] DCC also seeks clarification of any requirement that the Company report customer-specific load, ramp, contract, interconnection, direct-access, energy-procurement, or facility-development information in public compliance filings or other publicly accessible submissions.

2. Law, Record, and Policy Relied Upon

The Commission may require information necessary to evaluate cost causation, resource planning, interconnection needs, rate design, and compliance with Commission-approved tariffs. But that authority must be balanced against the need to protect confidential business information and sensitive infrastructure-related information. For data-center customers, the information needed to evaluate service requirements is often the same information that reveals commercially sensitive development plans, tenant commitments, financing assumptions, operational strategy, and competitive positioning.

The record does not appear to establish that public disclosure of customer-specific information is necessary to achieve the Commission's objectives. Aggregate reporting, confidential submissions, protective-order treatment, anonymized summaries, or limited Staff review may allow the Commission to monitor Schedule 96 implementation without exposing individual customers to competitive or security harms.

This issue is particularly important because the Final Order creates multiple new mechanisms that may require ongoing implementation review, including the separate queue, service agreements, ramp schedules, minimum demand obligations, direct assignment, exit fees, direct-access variations, and growth-related allocation treatment. Without clear confidentiality rules, implementation could require repeated public disclosure of customer-specific information that should be protected.

3. Grounds for Reconsideration

Reconsideration is warranted because the Final Order contains an essential omission, or at minimum good cause exists for further examination, regarding how customer-specific reporting will be

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52 *See id.* at 66-7.

handled. The Order does not adequately explain what information must be reported publicly, what may be submitted confidentially, what level of aggregation is sufficient, or how customer-specific information will be protected in compliance filings and future proceedings.

The Final Order states that the confidentiality of reporting should be addressed when the filing is made rather than "in the abstract."[53] That approach is insufficient where the reporting obligation itself is a condition of the new service framework. For data centers, load forecasts, ramp schedules, tenant demand, interconnection timing, direct-access strategy, and procurement information can reveal commercially and security-sensitive development plans. The Commission can preserve transparency through aggregated, anonymized, or confidential reporting without requiring public disclosure of customer-specific information.

This omission is essential because the reporting requirements are not merely administrative. If customers must disclose sensitive load, ramp, facility, or procurement information as a condition of service, the reporting framework itself can become a barrier to development in PGE's service territory. The Commission should not require data-center customers to expose commercially sensitive or security-sensitive information unless the disclosure is necessary, narrowly tailored, and subject to appropriate protections.

4. Requested Change and Effect on Outcome

DCC requests that the Commission clarify that customer-specific Schedule 96 information may be submitted confidentially and protected from public disclosure, including load forecasts, ramp schedules, facility-development information, tenant or end-use information, energy-procurement strategy, direct-access plans, interconnection timing, and contract-specific cost information. The Commission should further clarify that public reporting should use aggregated, anonymized, or redacted information wherever possible, and that any customer-specific disclosure must be limited to information necessary for Commission review.

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53 *Id.* at 67.

This change would alter the outcome by preserving the Commission's ability to monitor implementation and prevent cost shifting while avoiding unnecessary disclosure of confidential customer information and reducing the risk that reporting obligations themselves deter development in Oregon.

I. Compliance Timing and Implementation Support a Stay, Postponement, or Targeted Clarification

The timing and scope of the Compliance Filing underscore the practical need for caution. PGE's filing creates a new Schedule 96 and its direct-access variations, updates Schedules 89 and 90, creates Schedule 111, updates Rule I, and makes changes to other schedules. Staff reported that more than 175 tariff sheets were updated, and that PGE estimated approximately 963,000 customers would be impacted, with an average 29 percent rate increase for data-center customers.[54]

The breadth of the Compliance Filing also raises serious notice and review concerns. Parties were required to assess a sweeping tariff package—implementing new rates, new contractual obligations, new service conditions, new reporting requirements, and new class-specific charges—on an expedited compliance timeline rather than through a fully noticed tariff or rate proceeding. That process made it difficult for affected customers to evaluate the practical and legal consequences of the filing, identify inconsistencies with the Final Order, and test whether the proposed tariff language was just, reasonable, non-discriminatory, and consistent with statutory requirements.

Staff further reported that its initial review had already surfaced potential errors and requested suspension to allow transparent and thorough review. The Commission adopted Staff's recommendation and suspended the advice filing.[55] That suspension does not itself resolve the legal errors in Order No. 26-154, but it confirms that the implementing tariff package is unusually broad, materially consequential, and susceptible to error.

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[54] *Id.*, Appendix A at 2 (June 9, 2026) (describing PGE compliance filing, more than 175 updated tariff sheets, approximately 963,000 affected customers, and average 29 percent rate increase for data center customers).

[55] *Id.* at 2-3 (noting potential errors and sought suspension to allow transparent and thorough review; Commission adopted Staff recommendation).

The Compliance Filing also demonstrates the practical confusion created by the Order. The Company stated that it had added a generation-related interconnection queue for Schedule 96 under Rule I and would develop queue-management practices and procedures later, expecting to address implementation issues requiring tariff changes or additions in its next general rate case.[56] That confirms that the Final Order's queue was not sufficiently defined for immediate implementation. It also raises legal questions as to whether and how a stakeholder might challenge PGE's subsequent implementation, what standard of review would apply to those later implementation decisions.

The Compliance Filing further shows that the Final Order did not merely reallocate costs within Schedule 96. The Company created Schedule 96 and associated direct-access variations, updated Schedules 89 and 90, created Schedule 111, updated Rule I, and updated base rates and power costs using the PGM and EGM. The Compliance Filing estimates impacts to approximately 963,000 customers, including a 29 percent average increase for data-center customers compared to modest decreases for residential, commercial, and industrial customers.[57] The breadth of those changes reinforces that a rushed compliance filing was not a substitute for clear findings, statutory analysis, and meaningful notice.

Good cause therefore exists for the Commission to take up this application, clarify the challenged portions of the Final Order, and stay or postpone application of the challenged mechanisms as necessary to prevent irreparable commercial, operational, and rate-design harm while reconsideration is pending. At minimum, the Commission should not allow the challenged provisions to take effect through a Compliance Filing before it resolves the threshold legal, factual, notice, and implementation issues raised in this application.

V. CONCLUSION

For the reasons articulated herein, the Commission should grant rehearing or reconsideration of the Final Order. At minimum, the Commission should clarify the challenged provisions before they are

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56 PGE Advice No. 26-24 at 1.

57 *Id.* at 1, 4.

applied to any customer or used to determine service availability, direct-access eligibility, contract exposure, exit-fee liability, public-purpose funding obligations, growth-related allocation, or customer-specific reporting. The Commission can preserve cost-causation protections while correcting the Order's unsupported, unclear, or overbroad mechanisms.

DATED this 6th day of July 2026.

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APPENDIX A
New Evidence of Benefits Associated with Data-Center Development in Oregon

The following publicly identified benefits[58] are provided as illustrative examples. They do not eliminate the need for cost-causation protections, customer-specific cost responsibility, transparency, or safeguards against stranded-cost risk. They do, however, demonstrate that data-center development can produce concrete system, customer, economic-development, infrastructure, workforce, tax, and community benefits. Those benefits are relevant to reconsideration because the Final Order focused on potential cost-shift risks in a vacuum without requiring the Company to quantify offsetting benefits or the benefits that may be lost if the adopted tariff framework deters development in the Company's service territory.

Utility-System and Customer Benefits

1. Increased revenues and fixed-cost spreading. The Company's presentation to the Data Center Advisory Committee expressly identifies large new energy demand as a benefit where properly structured. PGE stated that new large-load customers, including data centers and advanced manufacturers, help pay for transmission and distribution upgrades needed by the region, and that bringing large demand onto the grid spreads fixed operations and maintenance costs over a broader customer base. The Company characterized growth as "part of the solution" for upgrading the grid while keeping costs as low as possible.[59]

2. Customer-funded grid resources. The Company identified a "first-of-its-kind" 31 MW / 62 MWh onsite battery system associated with Aligned Data Centers and Calibrant Energy. PGE stated that the battery system is owned and paid for by Aligned and is integrated into the Company's grid to maximize grid support and operational flexibility.[60]

3. Demand response and flexible load. The Company identified data-center demand response as a potential grid-support tool, citing work with NVIDIA, Emerald AI, and EPRI demonstrating that data centers can reduce demand during extreme weather events, price spikes, and long-duration crises. PGE described demand response as an "instant and low-cost solution."[61]

4. Unlocking existing grid capacity. The Company stated that its work with GridCARE identified more than 80 MW of additional capacity on the existing grid by better understanding data-center flexibility impacts, without the need for new infrastructure. That evidence is directly relevant to any cost-causation analysis because it shows that data-center load may not only impose system costs; it may also provide operational flexibility that avoids or defers system costs.[62]

5. Grid-enhancing technologies. The Company identified dynamic line ratings, real-time monitoring, conductor coatings, advanced conductors, and advanced power-flow controls as tools to improve use of the existing grid. PGE stated that it has installed more than 100 sensors on 13 transmission lines, that ceramic conductor coatings can increase line capacity on hot days by up to 20 percent, and that advanced conductors and power-flow controls can increase utilization of existing infrastructure and rights-of-way.[63]

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58 *See* Governor's Data Ctr. Advisory Comm., Committee Charge & Meeting Materials (2026), Or. Dep't of Energy, https://www.oregon.gov/energy/get-involved/Pages/Oregon-Data-Center-Advisory-Committee.aspx.

59 John McFarland, Portland Gen. Elec., Data Center Advisory Committee Presentation 2 (May 29, 2026), https://www.oregon.gov/energy/get-involved/Documents/06-John-McFarland-PGE-DCAC-05-29-2026.pdf.

60 *Id.* at 4.

61 *Id.*

62 *Id.*

63 *Id.* at 6.

6. Clean-energy and infrastructure investment. The Company stated that large customers can directly support new clean-energy projects and infrastructure, helping bring more clean power onto the system. That potential benefit is particularly relevant to the Final Order's HB 2021 discussion because the Commission should distinguish between large loads that merely impose procurement burdens and large loads that bring resources, flexibility, storage, or financial commitments that support compliance and reliability.[64]

Economic Development, Jobs, and Workforce Benefits

7. Rural economic-development benefits. The Governor's Data Center Advisory Committee was convened to develop recommendations for a framework that strategically pursues economic-development opportunities while keeping utility costs, infrastructure investments, and environmental impacts sustainable and equitable. The Committee's public materials therefore recognize economic development as part of the state interest, not a collateral issue.[65]

8. Prineville economic transformation. Prineville City Manager Steve Forrester described Prineville's transformation after data-center development, including a shift from approximately 20 percent unemployment after the loss of timber mills to approximately 6 percent unemployment, increased wages, local infrastructure benefits, benefits to schools and the police station, higher graduation rates, recruitment of new businesses, franchise-fee revenues of approximately $8-10 million, and property-tax-base growth.[66]

9. Construction and skilled-trades employment. Data centers were identified as multi-craft construction projects involving more than 20 crafts, with the potential to employ many union members at peak construction and provide well-paid jobs with benefits. To that end, repeated development and facility upgrades can support more than one-time construction opportunities.[67]

10. Workforce-training pipelines. Blue Mountain Community College offers a nine-month data-center technician certificate and infrastructure-focused programming in a region with many of the state's largest data-center facilities and employment opportunities. Partnerships with data centers and local employers on scholarships and equipment, and stackable credentials with high-school dual-credit are tools aimed to improve completion rates in Oregon and reduce debt barriers.[68]

11. Regional employment and investment impacts in Eastern Oregon. Eastern Oregon data-center investment enabled more than 5,940 jobs locally in 2022. Public reporting regarding an economic-impact study also states that $22.9 billion was invested in Morrow and Umatilla County data centers from 2011 through 2022, with one data center directly employing nearly 1,000 full-time employees and supporting more than 5,000 local workers and external businesses.

Tax, Fee, and Local Revenue Benefits

12. Property taxes and local fees. Public reporting states that one data center paid approximately $34 million in property taxes and fees in Morrow County after receiving tax incentives, along with $10 million in one-time community-development fund payments and $1.7 million in charitable donations in 2023. Those revenues reportedly supported local infrastructure and services,

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64 *Id*. at 5.

65 *See* Governor's Data Ctr. Advisory Comm., Committee Charge & Meeting Materials (2026), Or. Dep't of Energy, https://www.oregon.gov/energy/get-involved/Pages/Oregon-Data-Center-Advisory-Committee.aspx.

66 Governor's Data Ctr. Advisory Comm., Facilitator Summary: Session 1: Data Center Overview, Economic Development, Workforce Issues 4 (Feb. 27, 2026), https://www.oregon.gov/energy/get-involved/Documents/2-27-2026-DCAC-Session-1-Facilitator-Summary.pdf.

67 *Id.* at 6.

68 *Id.* at 6-7.

including a ladder fire engine, school resource officer, police body cameras, and homebuyer grants.[69]

13. Local tax-base stability. Eastern Oregon public reporting states that one data center pays more than $19 million in property taxes in Morrow County even while several data centers remain tax exempt, and that local leaders view data-center investments as increasing resources for schools, county services, health districts, workforce opportunities, and regional economic activity.[70]

14. Franchise-fee revenues and local-government fiscal capacity. Prineville's description of recent franchise-fee revenues of approximately $8-10 million and property-tax-base growth associated with data-center development. Those public revenues support local services and infrastructure, particularly in rural communities with limited alternative tax-base growth.[71]

Other Infrastructure Benefits

15. Water infrastructure in The Dalles. The Dalles completed an aquifer storage and recovery system that was permanently transferred to the city, along with associated groundwater rights. The project provides the community with more than 100 million additional gallons of water annually.[72]

16. City-owned water assets and system resilience. The Dalles also completed and fully funded the ASR system and transferred ownership to the City upon completion. The city describes the system as pumping excess surface water into an underground aquifer to help meet summer demand, increase storage, boost aquifer levels, and improve water quality by storing treated surface water.[73]

17. Broader water-system contributions. The Dalles also identifies data-center-related water infrastructure contributions including $28.5 million in improvements to publicly owned infrastructure, including two new wells, two reservoirs, a pump station, and a sanitary sewer lift station, in addition to the ASR project.[74]

18. Prineville infrastructure improvements. Prineville leveraged data-center investment to build an aquifer storage and recharge system and other infrastructure, and that data-center dollars helped fund roads, rail, and other community improvements.[75]

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[69] Michael Casey & Matt O'Brien, As Data Centers Proliferate, Conflict with Local Communities Follows, Associated Press (June 20, 2024), https://apnews.com/article/56b84cbb94942039754282afb076a87b.

[70] Yasser Marte, Eastern Oregon Leaders Praise Data Centers, Look to Future, E. Oregonian (May 30, 2025), https://www.eastoregonian.com/2025/05/30/local-leaders-praise-data-centers-look-to-future/.

[71] Governor's Data Ctr. Advisory Comm., Facilitator Summary: Session 1: Data Center Overview, Economic Development, Workforce Issues 4 (Feb. 27, 2026), https://www.oregon.gov/energy/get-involved/Documents/2-27-2026-DCAC-Session-1-Facilitator-Summary.pdf.

[72] Kate Brandt, Google & The Dalles, Oregon Complete New Water Storage System, Google: The Keyword (Oct. 22, 2025), https://blog.google/company-news/outreach-and-initiatives/sustainability/the-dalles-oregon-water/.

[73] City of The Dalles, Google Data Centers: Google Water Infrastructure Contributions, https://www.thedalles.org/business/google_data_centers/google_water_infrastructure_contributions.php (last visited July 1, 2026).

[74] *Id.*; City of The Dalles, Google's Contributions to the City Water System, https://www.thedalles.org/news_detail_T4_R207.php (last visited July 1, 2026).

[75] Governor's Data Ctr. Advisory Comm., Facilitator Summary: Session 1: Data Center Overview, Economic Development, Workforce Issues 4-5 (Feb. 27, 2026), https://www.oregon.gov/energy/get-involved/Documents/2-27-2026-DCAC-Session-1-Facilitator-Summary.pdf.

19. Regional water-infrastructure investment. Craig Reeder of Madison Ranches described data-center-related benefits including jobs, tax or in-lieu payments, and infrastructure investments, and specifically referenced substantial local water-infrastructure investment in the region.[76]

Technology, Digital Infrastructure, and Competitive Positioning

20. Oregon's technology ecosystem. Oregon's existing data-center ecosystem, includes internet exchange and telecommunications sites in Portland and Hillsboro and cloud/hyperscale facilities in Boardman and Umatilla. It also identifies Oregon advantages including low-cost hydropower, fiber and Asia-Pacific cable landings, land, and major operators already present in the state.[77]

21. PGE service-area technology cluster. The Company's DCAC presentation identifies the "Silicon Forest" high-tech cluster and Pacific subsea cables landing in Oregon as factors supporting data-center expansion in PGE's service area. These technology-cluster benefits are relevant to Oregon's broader economic-development strategy and to the risk that overly deterrent tariffs could shift development to other jurisdictions.[78]

22. Statewide digital-commerce benefits. Data Center tools helped provide $9.3 billion of economic activity for Oregon businesses, nonprofits, publishers, creators, and developers; that more than 282,000 Oregon businesses used data center tools at no cost to receive customer connections; and that one data center alone has invested more than $7 billion in Oregon since opening its The Dalles data center in 2006. Those figures are company-reported and should be treated as evidence of claimed broader economic activity rather than a Commission finding.[79]

Community-Benefit and Public-Service Benefits

23. Schools, nonprofits, and community grants. Public examples include Data Center Community Action Grants for schools, nonprofits, and community organizations in Prineville and Crook County, with funding directed to projects that strengthen and support the community and improve science, technology, engineering, arts, and mathematics education.[80]

24. Robotics and career-and-technical education. Public reporting states that one data center provided support for Crook County School District robotics and career-and-technical education programs intended to expand hands-on, real-world learning opportunities and prepare students for careers in technology and skilled trades.[81]

25. Public-safety and housing support. Public reporting regarding Morrow County states that data-center-related taxes, fees, and community payments helped fund a ladder fire engine, a school resource officer, police body cameras, and homebuyer grants. Those examples illustrate that local benefits can extend beyond direct employment or utility revenue.[82]

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76 *Id.* at 5.

77 *Id.* at 2.

78 McFarland, supra note 2, at 3.

79 Google, Google Economic Impact: Oregon, https://economicimpact.google/state/or/ (last visited July 1, 2026).

80 Jason Chaney, Meta Taking Applications for Community Action Grants, Cent. Oregonian (Oct. 20, 2025), https://centraloregonian.com/2025/10/20/meta-taking-applications-for-community-action-grants/; Crook County, Or., Meta Data Center Community Action Grants, ChangeX, https://www.changex.org/funds/Meta-PrinevilleDataCenter (last visited July 1, 2026).

81 Jason Chaney, Meta Donation to Boost Crook County Robotics, CTE Programs, Cent. Oregonian (Oct. 16, 2025), https://centraloregonian.com/2025/10/16/meta-donation-to-boost-crook-county-robotics-cte-programs/.

82 Casey & O'Brien, supra note 12.

Policy Benefits from a Properly Structured Framework

26. "Growth pays for growth" can protect existing customers while preserving benefits. PGE's DCAC presentation states that Oregon's UM 2377 / HB 3546 framework is intended to ensure that large data centers have their own customer category, that costs are assigned to the customers driving growth, and that large customers make long-term commitments and minimum payments, so families and small businesses are not left covering unused infrastructure costs. That principle supports cost-causation protections, but it also supports reconsideration where the Final Order goes beyond cost-based protections and risks deterring beneficial development.[83]

27. Oregon can condition benefits rather than forfeit jurisdiction. The public record shows that Oregon communities have used data-center development to obtain utility-system investment, local revenue, water infrastructure, community grants, public-safety resources, workforce development, and broader technology-sector growth. Those benefits are not automatic; they depend on transparent siting, enforceable commitments, cost-causation rules, infrastructure planning, and appropriate protections for existing customers and natural resources. But if the Commission adopts tariff terms that drive new development outside PGE's service territory, the Commission may lose the ability to condition, monitor, or capture those benefits for Oregon customers and communities.[84]

Relevance to Reconsideration

These benefits support reconsideration for three reasons. First, they show that the Final Order's cost-shift analysis is incomplete if it considers only possible incremental costs and not incremental revenues, fixed-cost spreading, customer-funded grid resources, demand response, avoided infrastructure, local tax revenues, infrastructure contributions, and community benefits.

Second, they support a targeted procedural remedy. If the Commission believes benefits and risks are not adequately quantified in the UM 2377 record, it should direct the Company to quantify both sides of the ledger through a supplemental report, compliance process, or future general rate case. PGE is the entity with the best access to information regarding load forecasts, rate impacts, interconnection needs, system constraints, cost-allocation effects, customer-funded batteries, flexible-load opportunities, GridCARE capacity, grid-enhancing technologies, and whether investments initially associated with Schedule 96 customers can later be used by other customers.

Third, they support modification or clarification of the most deterrent provisions of the Final Order. The Commission can preserve cost-causation protections while clarifying that charges must be tied to demonstrable customer-caused costs, that HB 2021 cannot be used as an open-ended customer-specific service barrier, that exit fees must be limited to unrecovered costs net of repurposing or system use, and that minimum demand charges, deposits, direct assignment, PGM allocation, exceedance penalties, and public-purpose funding obligations may not duplicate one another or produce recovery beyond cost causation.

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83 McFarland, supra note 2, at 5.

84 *See* Governor's Data Ctr. Advisory Comm., Committee Charge & Meeting Materials (2026), Or. Dep't of Energy, https://www.oregon.gov/energy/get-involved/Pages/Oregon-Data-Center-Advisory-Committee.aspx; McFarland, supra note 2; Governor's Data Ctr. Advisory Comm., Facilitator Summary: Session 1: Data Center Overview, Economic Development, Workforce Issues (Feb. 27, 2026), https://www.oregon.gov/energy/get-involved/Documents/2-27-2026-DCAC-Session-1-Facilitator-Summary.pdf.