

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

**UE 435**

In the Matter of

PORTLAND GENERAL ELECTRIC  
COMPANY,

Request for a General Rate Revision.

NEWSUN ENERGY LLC'S  
OPENING BRIEF

**I. INTRODUCTION**

Pursuant to the schedule adopted by the Oregon Public Utility Commission (“Commission”) in this docket, NewSun Energy LLC (“NewSun”) respectfully submits this Opening Brief. NewSun takes a position on only one issue in this docket, which is the first issue listed in the joint issues list: What should be PGE’s authorized return on equity (“ROE”)? PGE has not met its burden to establish that an *increase* in its ROE is warranted. Rather, PGE’s acquisition of the Clearwater Wind Project and battery storage projects illustrate that PGE has adequate access capital. Further, PGE has failed to present the Commission with an acknowledgeable Clean Energy Plan (“CEP”) and is proposing to procure well below its acknowledged Integrated Resource Plan (“IRP”) identified renewable energy need in its current

2023 All-Source Request for Proposals (“RFP”). In light of the Commission’s obligations to ensure that PGE makes continual progress towards its clean energy targets and in the absence of a performance incentive for early compliance, the Commission should not authorize an increased ROE that would reward PGE for these failures. As such, NewSun requests that the Commission decline PGE’s request to increase its authorized ROE, adopting instead a lower ROE until PGE can demonstrate it is on track to meet greenhouse gas emission reduction targets.

## **II. LEGAL STANDARD**

PGE bears the burden of showing that the rate or schedule of rates proposed to be established or increased is fair, just, and reasonable.<sup>1</sup> The Commission may not authorize a rate or schedule of rates that is not fair, just and reasonable.<sup>2</sup> Further, the Commission “shall ensure that an electric company demonstrates continual progress . . . and is taking actions as soon as practicable that facilitate rapid reduction of greenhouse gas emissions at reasonable costs to retail electricity consumers.”<sup>3</sup> Finally, the Commission may apply a performance incentive for early compliance with one or more of the clean energy targets.<sup>4</sup>

## **III. DISCUSSION**

### **1. What should be PGE’s authorized return on equity?**

PGE has not met its burden to establish that its requested ROE is fair, just and reasonable. To the contrary, the evidence in this case establishes that PGE does not have a problem attracting capital. In 2021 PGE issued \$150M in green bonds to finance the Wheatridge renewable

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<sup>1</sup> ORS 757.210.

<sup>2</sup> *Id.*

<sup>3</sup> ORS 469A.415(6).

<sup>4</sup> ORS 469A.455.

facility.<sup>5</sup> Then in 2022, PGE issued another \$100M in green bonds to support the development of the Constable and Seaside battery projects and a \$499M Green Use of Proceeds equity offering to support the construction of the Clearwater Wind Facility and Constable battery project.<sup>6</sup> Then in 2023, PGE issued another \$500M in green bonds to support the Seaside battery project and future renewable projects.<sup>7</sup> Further, PGE's stock price is strong and increasing.<sup>8</sup> These are not indicators of a utility that needs an increase in its ROE in order to attract capital.

Electric utilities around the nation have recently been authorized rates of return as low as 7.36 percent with an average of 9.51 and a median of 9.5.<sup>9</sup> This is well below PGE's recommended range in opening testimony of 10.25 percent to 11.25 percent, and PGE's requested ROE of 9.75 percent,<sup>10</sup> subsequently reduced to 9.65 percent in rebuttal testimony.<sup>11</sup> PGE has not met its burden to demonstrate that its ROE should be so substantially higher than the national median and average. If anything, PGE's ROE should be reduced.

PGE's ROE should be reduced and should not be increased until PGE is on track to meet Oregon's statutory greenhouse gas emissions reduction mandate. So far PGE has not presented the Commission with a viable plan to meet its greenhouse gas emissions reduction requirements.<sup>12</sup> The Commission declined to acknowledge PGE's plan in light of PGE's unwillingness to incorporate further analysis in response to Staff and stakeholders' material

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<sup>5</sup> Staff/2818, Muldoon/23.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> Staff/2808, Muldoon/32.

<sup>9</sup> Walmart/100, Perry/10.

<sup>10</sup> PGE/600/Figueroa-Liddle/17.

<sup>11</sup> PGE/1800, Figueroa-Liddle/2.

<sup>12</sup> *In re Portland Gen. Elec. Co., 2023 Clean Energy Plan and Integrated Resource Plan*, Docket No. LC 80, Order No. 24-096 at 17 (Apr. 18, 2024).

concerns, and in doing so, the Commission emphasized that meeting such targets will “be a tremendous challenge and may require even more than PGE is currently planning.”<sup>13</sup> PGE last requested an increased ROE roughly one year ago, when it argued that the raise was “particularly important as PGE seeks to invest in its systems to achieve its own goals to decarbonize and the goals set forth in HB 2021.”<sup>14</sup> PGE’s integrated resource plan (“IRP”) action plan sought to acquire 251 MWa renewable energy per year over a five-year period (by 2028).<sup>15</sup> Yet, PGE decided to move forward with only 82 MWa cumulative renewable resources in its Final Shortlist.<sup>16</sup> This is far from a simple detour from PGE’s 2023 IRP action plan, and certainly not indicative of investing in “systems to achieve its own goals to decarbonize and the goals set forth in HB 2021.”<sup>17</sup> In contrast, the Commission is authorized to apply a “performance incentive” for early compliance with clean energy targets. In the absence of such a performance incentive, and in light of PGE’s gross under procurement towards its decarbonization target, it would be categorically inappropriate to increase PGE’s ROE. As such, the Commission should signal its dissatisfaction with PGE’s approach by lowering PGE’s ROE until PGE can demonstrate that it is on track to meet its greenhouse gas emission reduction targets.

Additional issues the Commission should consider before increasing PGE’s ROE:

- Whether PGE should receive an increased ROE while the Commission investigates PGE’s conduct in its 2021 RFP in Docket UE 427; and

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<sup>13</sup> *Id.*  
<sup>14</sup> *In re Portland Gen. Elec. Co., Request for a General Rate Revision; and 2024 Annual Power Cost Update*, Docket No. UE 416, PGE’s Statement of Position at 18.  
<sup>15</sup> *Id.* at 6.  
<sup>16</sup> *In re Portland Gen. Elec. Co., 2023 Request for Proposals*, Docket No. UM 2274, Request for Acknowledgement of the Final Shortlist of Bidders at 8.  
<sup>17</sup> PGE’s Statement of Position, *supra* note 1.

- Whether different ROEs may be appropriate for different types of capital expenditures, such as incentivizing PGE to incur capital expenditures to harden its system from wildfire while applying a different ROE to generation assets.

#### IV. CONCLUSION

For the foregoing reasons, NewSun respectfully requests that the Commission reject PGE's requested ROE.

Dated this 28th day of October 2024.

Respectfully submitted,  
NEWSUN ENERGY LLC

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