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October 29, 2024

Via Electronic Filing

Public Utility Commission of Oregon
Attn: Filing Center
201 High St. SE, Suite 100
Salem OR 97301

Re: In the Matter of Portland General Electric Company
Request for a General Rate Revision
Docket No. UE 435

Dear Filing Center:

Please find enclosed the Opening Brief on behalf of the Alliance of Western Energy Consumers ("AWEC") in the above-referenced docket.

Thank you for your assistance. If you have any questions, please do not hesitate to call.

Sincerely,

/s/ Nannette M. Moller
Nannette M. Moller

Enclosures

BEFORE THE

PUBLIC UTILITY COMMISSION OF OREGON

UE 435

In the Matter of	)
	)
PORTLAND GENERAL ELECTRIC COMPANY,	)
	)
Request for a General Rate Revision	)
	)

OPENINING BRIEF

ON BEHALF OF THE

ALLIANCE OF WESTERN ENERGY CONSUMERS

October 29, 2024

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I. INTRODUCTION

Pursuant to Administrative Law Judge Mapes' September 27, 2024, and October 11, 2024 Rulings in the above captioned docket, the Alliance of Western Energy Consumers ("AWEC") files this Opening Brief with the Oregon Public Utilities Commission ("Commission").

As described more thoroughly below and in the Rebuttal Testimony of AWEC Witness Bradley Mullins, AWEC's primary recommendation in this case is that the Commission reject PGE's filing on the basis that it has failed to carry its burden to demonstrate not only that its rate request is just and reasonable, but also that its current rates are unjust and unreasonable – that is, that they fail to "provide adequate revenue both for operating expenses of the public utility … and for capital costs of the utility" with a reasonable return.[1]

A mere eight weeks after the Commission authorized a 15.1% overall rate increase for PGE (including power costs),[2] the Company has returned to the Commission requesting yet another increase of 8.6% as of its Surrebuttal Testimony.[3] It bases this increase on a calculation of rate base that mismatches depreciation expense and capital additions, and on its 2024 budget rather than known and measurable adjustments to actual expenses. While PGE may believe this is typical practice given that its revenue requirement has been set via stipulation for at least the past 15 years, the fact is that no other Oregon utility determines its revenue requirement as PGE does in this case. As shown below, all other utilities begin with their actual results, not a budget that they alone developed. Compounding these problems, PGE requests unusual tracker mechanisms to

1 ORS 756.040(1).
2 Docket No. UE 416, Staff Report at 4 (Dec. 22, 2023).
3 UE 435, PGE/2100, Ferchland-Liddle/3:Table 2.

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bring two standalone battery storage resources online outside of the test year. PGE has offered no compelling reason to approve these trackers and instead claims they are justified because the online dates of these resources, which PGE procured, occur after the rate-effective date, which PGE selected.

Taken together, these facts demonstrate that PGE has failed to carry its burden of proof in this case and its application for rate relief should be denied. In the alternative, however, and as described more fully below, AWEC has presented compelling evidence in opposition of PGE's proposal and therefore requests that the Commission adopt the adjustments presented below. The adoption of AWEC's adjustments would result in rates that are just, reasonable, and in the public interest. Notably, AWEC's adjustments collectively result in a rate decrease for PGE customers.

II. LEGAL STANDARD

In establishing fair and reasonable rates, the Commission has two fundamental obligations. First, it must determine an appropriate rate of return on utility investment. This inquiry remains guided by the seminal U.S. Supreme Court decisions in *Federal Power Comm'n v. Hope Natural Gas* and *Bluefield Water Works & Improvement Co. v. Federal Power Comm'n*, wherein "the return to the equity owner should be commensurate with returns on investments in other enterprises having corresponding risks. That return, moreover, should be sufficient to assure confidence in the financial integrity of the enterprise, so as to maintain its credit and to attract capital."[4] Additionally, "[t]he return should be reasonably sufficient to assure confidence in the

[4] Fed. Power Com. v. Hope Nat. Gas Co., 320 U.S. 591, 603, 64 S. Ct. 281, 288 (1944).

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financial soundness of the utility and should be adequate, under efficient and economical management, to maintain and support its credit and enable it to raise the money necessary for the proper discharge of its public duties."[5] Such standards are codified in ORS 756.040(1)(a)-(b).[6]

Second, the Commission must determine the revenue requirement necessary to enable the utility to earn the level of return authorized under the paradigm described above. But the authorized revenue requirement is not a guarantee that the utility will earn its authorized return; rather, it merely ensures the utility the *opportunity* to earn that return.[7] The actual authorized rates are "inherently based on estimates and may overcompensate or undercompensate utilities."[8]

In executing these obligations, the Commission retains "the broadest authority--commensurate with that of the legislature itself--for the exercise of [its] regulatory function."[9] The Commission is mandated to "balance the interests of the utility investor and the consumer in establishing fair and reasonable rates."[10] As explained by the Supreme Court of Oregon, "[a]s part of that balance, the legislature directed the [Commission] to, on the one hand, 'protect [public utility] customers, and the public generally, from unjust and unreasonable exactions and practices

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5 Bluefield Water Works & Improvement Co. v. Pub. Serv. Comm'n, 262 U.S. 679, 693, 43 S. Ct. 675, 679 (1923).

6 "Rates are fair and reasonable for the purposes of this subsection if the rates provide adequate revenue both for operating expenses of the public utility or telecommunications utility and for capital costs of the utility, with a return to the equity holder that is: (a) Commensurate with the return on investments in other enterprises having corresponding risks; and (b) Sufficient to ensure confidence in the financial integrity of the utility, allowing the utility to maintain its credit and attract capital."

7 *Re Pacific Power & Light Co.*, Docket No. UF 3779, Order No. 82-606, 1982 Ore. PUC LEXIS 4, *35-*36 (Aug. 18, 1982) ("The authorized return on equity is not what an investor can realistically expect to be the actual return. The investor does not expect the authorized return to be guaranteed – that it would be earned under almost any operating scenario. If that were the case, the selection of a rate of return on equity would be simple indeed, as investor risk measured under any theory would be zero."

8 *Gearhart v. Public Utility Comm'n of Oregon*, 356, Ore. 216, 221 (2014).

9 Docket Nos. UE 88 and UM 989, Order No. 08-487 at 4 (Sep. 30, 2008).

10 ORS 756.040(1).

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and to obtain for them adequate service at fair and reasonable rates,' and, on the other hand, to establish rates that 'provide adequate revenue' for both the operating expenses and the capital costs of the utility, 'with a return to the equity holder.'"[11]

PGE alone retains the burden of proof to establish that its proposed rate increase is just and reasonable.[12] The burden of proof and persuasion is borne by the Company throughout the proceeding and does not shift to any other party.[13]

III. ARGUMENT

PGE has failed to show by a preponderance of evidence that its current rates are insufficient to provide the Company a reasonable opportunity to earn a reasonable return. As set forth herein, specifically in response to Issue #55, the Company did not present substantial evidence in support of its proposed rate increase and AWEC has presented compelling evidence in opposition to PGE's proposal. Accordingly, because PGE's rate filing fails to meet the requirements of ORS 757.210(1)(a) by not providing sufficient evidence that proposed rates are just, reasonable and in the public interest, PGE's rate filing should be rejected in its entirety. In the alternative, AWEC requests that the Commission adopt the adjustments set forth below, which collectively result in a rate decrease for PGE customers.

A. Cost of Capital

1. <u>Issue 1: if the Commission does not reject PGE's rate filing, it should establish the Company's return on equity at 9.25%.</u>

As demonstrated above, for PGE to justify a rate increase in this case, it must demonstrate

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[11] *Gearhart v. Public Utility Comm'n of Oregon* , 356 Or. 216, 232, 339 P.3d 904, 914 (2014).
[12] ORS § 757.210(1); *Pac. Nw. Bell Tel. Co. v. Sabin*, 21 Or App 200, 213-14 (1975).
[13] Docket No. UE 228, Order No. 11-432 at 3 (Nov. 2, 2011).

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that its current rates do not provide it with a reasonable opportunity to earn a return that is "commensurate with returns on investments in other enterprises having corresponding risks."[14] Therefore, the Commission must determine what a reasonable ROE for PGE is and whether PGE's current rates are insufficient to give it a reasonable opportunity to earn this ROE.

PGE's current ROE was established less than a year ago via an uncontested settlement that the Commission approved.[15] Accordingly, it is indisputable that PGE's ROE met the *Hope* and *Bluefield* tests at that time. PGE offers no evidence that capital market conditions have changed between then and now in a manner that justifies increasing its ROE. In fact, the evidence indicates the opposite – both inflation and interest rates have declined since the Commission last approved PGE's current ROE.[16]

Moreover, PGE's cost of equity analyses are flawed and do not support the Company's request to increase its ROE to 9.65%. PGE performed a Discounted Cash Flow ("DCF") analysis, a Capital Asset Pricing Model ("CAPM") analysis, an Empirical CAPM ("ECAPM") analysis, and a Risk Premium analysis.

Initially, the Commission should reject PGE's adjustment to its DCF and CAPM ROE results based on the Company's requested capital structure.[17] To AWEC's knowledge, the Commission has never approved such an adjustment, and in any case, PGE has not justified one here. PGE has had a 50/50 capital structure since at least 2013 and this circumstance has never

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14 *Federal Power Com. v. Hope Natural Gas Co.*, 320 U.S. 591, 603 (1944).
15 Docket No. UE 416, Order No. 23-386 at 12, 14 (Oct. 30, 2023).
16 PGE/600, Figueroa-Liddle/24:21-25:3 25:5-6; PGE/2900, Figueroa-Liddle/7:10-15.
17 AWEC/200, Kaufman/46:14-47:12.

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been used to justify a higher ROE.[18] Moreover, the Company proposes an equity adjustment averaging over one percent for every 10% change in equity ratio.[19] This is grossly disproportionate to what the evidence actually shows, which is that there is no meaningful distinction in the cost of equity between proxy group companies with lower-than-average equity ratios and firms with higher-than-average equity ratios.[20]

The Commission should also reject PGE's ECAPM analysis for the same reasons it rejected that analysis in PacifiCorp's 2020 general rate case.[21] Specifically, the ECAPM is not used by FERC and has not been demonstrated to be widely adopted or available.[22] PGE has offered no evidence in this case that would change this conclusion.

Further, the Commission should reject PGE's Risk Premium model. Not only is this model "a circular model, divorced from both market data and financial theory,"[23] it was also rejected by FERC. FERC has found that this model is "largely redundant with the CAPM" and also that it "is likely to provide a less accurate current cost of equity estimate than the DCF or CAPM because it relies on previous ROE determinations, whose resulting ROE may not necessarily be directly determined by a market-based method …."[24] While FERC subsequently reversed its decision to exclude the Risk Premium model on rehearing,[25] that decision was then vacated by the D.C.

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18 Docket No. UE 262, Order No. 13-459 at 3 (Dec. 9, 2013).

19 AWEC/200, Kaufman/47 (Confidential Table 18).

20 *Id.* at Kaufman/47:7-48:13.

21 Docket No. UE 374, Order No. 20-473 at 30 (Dec. 18, 2020)

22 *Id.*

23 AWEC/200, Kaufman/64:8-9.

24 *Ass'n of Bus. Advocating Tariff Equity v. MISO, Inc.*, Opinion No. 569, 169 F.E.R.C. P 61,129, 61,796 (Nov. 21, 2019).

25 *Ass'n of Bus. Advocating Tariff Equity v. MISO, Inc.*, Opinion No. 569-A, 171 F.E.R.C. P. 61,154, 62,197 (May 21, 2020).

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Circuit as arbitrary and capricious and FERC has not issued a subsequent ruling.[26]

In addition, PGE's DCF and CAPM models generate abnormally high ROE estimates for PGE due to several biased assumptions. First, PGE applies an unrealistically high growth rate in its constant growth DCF model. Specifically, it uses short-term growth rates as the long-term growth rate.[27] As Dr. Kaufman shows, this assumption is unrealistic, as there is no evidence to suggest that dividends can follow short-term growth rates indefinitely.[28] It is precisely because the constant growth (or single-stage) DCF model assumes a single dividend growth rate indefinitely that the Commission has rejected this DCF model in favor of the multi-stage DCF in the past.[29] PGE's single-stage DCF with its outsized growth rate yields an ROE recommendation of 11.3%, while its multi-stage model yields a more reasonable ROE of 9.4%.[30]

Second, PGE's CAPM (and ECAPM) analysis uses systematically biased betas. Beta measures the correlation between an investment's return and the overall market return.[31] Thus, a beta less than one typically indicates that the investment is lower risk than the market generally and, as such, investors require a lower return.[32] PGE uses *Value Line* adjusted betas that trend toward one.[33] This suggests that utilities have a similar risk profile to the market as a whole, which not only seems unlikely given that they are regulated monopolies, but is also not supported by industry studies.[34] Moreover, PGE's *Value Line* data are improperly influenced by anomalous

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26 *MISO Transmission Owners v. FERC*, 45 F.4th 248, 264 (D.C. Cir. 2022).
27 AWEC/200, Kaufman/68:18-19.
28 *Id.* at 68:19-21.
29 Docket No. UG 221, Order No. 12-437 at 6 (Nov. 16, 2012).
30 PGE/600, Figueroa-Liddle/43:13-44:3.
31 AWEC/200, Kaufman/49:14-16.
32 *Id.*
33 *Id.* at 50:9-14.
34 *Id.* at 51 fn. 94.

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stock market behavior that occurred during the COVID-19 pandemic.[35]

Third, PGE's market risk premium used in its CAPM (and ECAPM) is excessive because it is based in part on an historical average rather than a forecast of the future (7.17%) and in part on a single forecast from Bloomberg (6.37%).[36] As Dr. Kaufman shows, PGE's market risk premiums are substantially higher than the average of consensus estimates of 4.78%,[37] and in fact Bloomberg lowered its forecast in May of this year to 5.536%.[38]

For these reasons, the Commission should give little weight to PGE's ROE models and should give primary weight to the models advanced by AWEC and Staff. These models result in a recommended ROE range between 8.96% and 9.41% from Staff and 7.6% to 9.3% from AWEC.[39] AWEC's recommended 9.25% is near the mid-point of Staff's range and at the high end of AWEC's range.

2. Issue 2: If the Commission does not reject PGE's rate filing, it should establish a capital structure for PGE with 47% equity and 53% long-term debt.

Consistent with its Rebuttal Testimony, AWEC recommends that the Commission establish a capital structure for PGE with 47% equity and 53% long-term debt.[40] PGE opposes this and requests a capital structure evenly split between equity and debt.[41] The Company states that its recommended capital structure is reasonable because it maintains financial strength and liquidity, ensures reliable access to capital markets, and balances costs for customers and shareholders.[42]

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[35] *Id.* at 51:1-52:5.
[36] PGE/600, Figueroa-Liddle/39:3-8.
[37] AWEC/200, Kaufman/67, Table 25.
[38] *Id.* at 65:6-7.
[39] PGE/1800, Figueroa-Liddle/9, Figure 1.
[40] AWEC/400, Kaufman/24:8-14.
[41] PGE/2900, Figueroa-Liddle/26:2.
[42] *Id.* at 26:3-5.

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PGE does not, however, argue or provide evidence that a capital structure with 47% equity will not also achieve these goals.

Where a utility's actual capital structure contains less equity than it requests for regulatory purposes, it is important not to establish a hypothetical capital structure with higher equity because this misaligns incentives for the utility. Specifically, by having rates set assuming more equity in PGE's capital structure than it actually has, PGE will be incentivized to keep its equity ratio low because it will be able to more easily earn its authorized return, and aligning its actual capital structure with the hypothetical structure approved by the Commission will make it more difficult for PGE to earn its return.[43] As AWEC Witness Kaufman showed, adopting PGE's requested capital structure increases customer costs by $33 million per year and provides a windfall profit to shareholders of $20 million per year.[44]

On the other hand, it may be reasonable to establish a hypothetical structure with higher equity if the utility has a demonstrated plan to achieve that higher equity level in actual operations. PGE, however, does not. The Company claims that it has achieved an average equity level of 49.9% since 2007,[45] but this is both misleading and irrelevant to the capital structure the Commission should establish in this case. As PGE's own testimony shows, the amount of equity in its capital structure has declined materially from 51.4% in 2019 to 47.4% in 2023.[46] Meanwhile, PGE's capital forecast shows that it does not intend to achieve a 50% equity level at

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43 AWEC/200, Kaufman/36:14-21.
44 *Id.* at 37:8-38:4.
45 PGE/1800, Figueroa-Liddle/62, Table 3.
46 *Id.*, Table 2.

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any point in the next five years and especially not in the 2025 rate-effective period.[47] Thus, establishing a capital structure for PGE with 50% equity will not serve the public interest. It will not incentivize PGE to achieve this capital structure; it will not incentivize PGE to efficiently manage its costs; and it artificially inflate the overall return to shareholders.

B. Rate Base

1. Issue 4: If the Commission does not reject PGE's rate filing, the Commission should establish a rate base and depreciation expense using average-of-monthly averages calculation performed.

PGE describes its rate base calculation in this case as taking "actual plant balances as of December 31, 2023, and then includ[ing] plant additions placed in service over 2024, as well as annualized 2024 depreciation for these new assets."[48] This statement elides the mismatch that PGE implements when calculating rate base. Specifically, as PGE itself testifies, "PGE calculates 2024 depreciation by assuming, *for purposes of the depreciation calculation*, that these assets were placed in service on January 1, 2024."[49] Thus, PGE calculates depreciation for capital placed in service in 2024 over a different time period than the period in which it actually places these projects into service. This is a mismatch of rate base – a "jumble of rate base valuation assumptions" that does not lead to an accurate calculation.[50]

This is no problem, PGE asserts, because assuming a full year of depreciation expense for projects placed in service in 2024 "actually *reduces* PGE's December 31, 2024 rate base."[51] This may be true, but PGE does not admit to the converse of this, which is that its

47 AWEC/400, Kaufman/22, Confidential Table 2.
48 PGE/2400, Batzler-Meeks/7:4-6.
49 *Id.* at 12:13-15 (emphasis in original).
50 AWEC/300, Mullins/9:15-16.
51 PGE/2400, Batzler-Meeks/13:1-2 (emphasis in original).

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assumption also increases depreciation *expense*, which has a higher revenue requirement impact than accumulated depreciation.[52] PGE admits that its method results in the depreciation base for plant in service as of December 31, 2023 being higher in calendar year 2024 than it will be in 2025, while depreciation expense for this same plant will also be higher in 2024 than it will be in 2025.[53] As AWEC Witness Mullins states, "by measuring plant balances over inconsistent periods using the proxy/hybrid approach, PGE is able to get the best possible revenue requirement outcome. PGE gets higher depreciation expense on new plant additions, without recognizing the lower depreciation expense and lower rate base valuation for the existing plant."[54]

PGE has failed to provide a consistent method to calculate rate base and depreciation expense and therefore, the Commission cannot rely on PGE's rate base to evaluate the reasonableness of PGE's requested revenue requirement. PGE's method of calculating rate base and depreciation expense is further evidence of why the Company has failed to meet its burden of proof. Accordingly, the Commission should reject PGE's rate filing.

If, however, the Commission does not reject PGE's filing outright, AWEC recommends that the Commission reject PGE's invalid hybrid approach and establish a rate base and depreciation expense using average-of-monthly-averages ("AMA") calculation performed over the 12-months ending December 31, 2024, as described in the testimony of AWEC Witness Mullins.[55] This method is more consistent with the rate base model that PGE submitted with its

52 AWEC/300, Mullins/11:20-12:7.
53 AWEC/510 (PGE Response to AWEC DR 209).
54 AWEC/300, Mullins/14:18-21.
55 AWEC/300, Mullins/9:5-16:2.

filing and is supported by historical precedent.[56]

C. Compensation

1. Issue 9(a): If the Commission does not reject PGE's rate filing, the Commission should adopt the 2023 actual FTE levels, with known and measurable wage rate increases through 2025.

PGE requests $470.4 million, or a 20% annualized increase from 2023 for the Company's 2025 labor expense.[57] AWEC recommends that the 2023 actual FTE levels, with known and measurable wage rate increases through 2025, be used for the calculation of labor expense, which results in an overall 7% increase to 2023 wages and salaries.[58] Relative to PGE's proposed budget, AWEC's recommendation would result in a $34,238,543 reduction in labor expense and a corresponding $35,461,429 reduction to revenue requirement.[59] As explained below in response to Issue #55, the primary concern and inexcusable flaw with PGE's compensation request is that it is justified in relation to a prior budget, and it is therefore it impossible for AWEC – and the Commission – to objectively evaluate the reasonableness of PGE's proposed costs. PGE asserts that its "2025 labor expense request, when viewed holistically, is $470.4 million representing a 4.3% annualized increase from 2023."[60] According to PGE, "[t]his request is more than supported by current economic forecasts."[61] However, as AWEC explained in Rebuttal Testimony, PGE's focus on the 4.3% increase is misleading because the

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56 *See In re Cascade Natural Gas Company*, UF 3094, UF 3129, Order No. 74–898 (Nov. 21, 1974) (1974 WL 391913); *see also In re: Northwest Natural Gas Company*, UF 3222, Order No. 76-954 (Aug. 30, 1976) (1976 WL 421881) (Rate base computed on a monthly average basis); *see also In re Continental Telephone Co. of the Northwest, Inc.*, UF 3162, Order No. 76-061 (Jan. 24, 1976) (1976 WL 419228).

57 PGE Position Statement at 6 (Oct. 8, 2024).

58 AWEC/300 Mullins/27:17-20.

59 AWEC/300, Mullins/3, Table 1 – REB; 27:19-23.

60 PGE Position Statement at 6.

61 *Id.*

Company's analysis included both labor O&M expense and capitalized labor expense.[62] When analyzing only the O&M portion of labor expenses, it is clear that the labor increase PGE is proposing is significantly higher than what the Company is implying.[63] As such, use of the 2023 actual FTE levels, with known and measurable wage rate increases through 2025 remains reasonable.

2. Issue 9(d): If the Commission does not reject PGE's rate filing, the Commission should remove all stock incentives from revenue requirement.

PGE requests $3.7 million of incentives be placed into capital in the 2024 year.[64] AWEC recommends that the Commission reject PGE's request in its entirety, which results in a $3,392,878 reduction revenue requirement.[65] Removal of all stock incentives from revenue requirement is necessary because stock incentives are not an expenditure to the Company, but rather reflect the issuance of new stock instruments to employees and therefore do not represent a cost of providing utility services.[66] From a financial accounting perspective, the accrual associated with stock incentives is a form of equity dilution, which again, is not a cost of providing utility service.[67] In accordance with Commission precedent, because stock incentives are not a cost of providing utility service, they cannot be included in revenue requirement.[68] Additionally, because stock incentives are specifically designed to align the interest of employees with the interest of shareholders, it is doubly necessary to exclude them from PGE's rates.[69] Notably, CUB "agrees

62 AWEC/300, Mullins/28:16-19
63 *Id.* at 28:13-19.
64 PGE Position Statement at 7.
65 AWEC/100 Mullins/46:15.
66 *Id.,* Mullins/46:3-13; AWEC/300, Mullins/35:11-18.
67 *Id.*
68 *See* Docket No. UE 426, Order No. 24-311 at 3 (Sep. 23, 2024).
69 AWEC/100, Mullins/46:3-13; AWEC/300, Mullins/35:11-18

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with AWEC that providing stock to employees is inappropriate to include in revenue requirement because it does not require any cash outlay."[70]

3. Issue 9(e): If the Commission does not reject PGE's rate filing, the Commission should remove the reduction to the allocation credit amount associated with incentives overheads from revenue requirement.

PGE asserts that the incentives overhead credit is "appropriately applied to reflect the removal of 50% of nonofficer ACI and Stock incentives," and therefore no adjustment is appropriate.[71] AWEC recommends that the Commission remove the reduction to allocation credit amount from revenue requirement, which reduces revenue requirement by $4,198,855.[72] As AWEC explained in testimony, PGE reduces the allocation credit associated with incentives overheads but does not reduce the incentive overheads themselves.[73] Therefore, contrary to PGE's assertion, removal of the reduction to the allocation credit amount from revenue requirement is reasonable.

4. Issue 9(f): If the Commission does not reject PGE's rate filing, the Commission should reduce key customer management costs by $700,000.

Please see AWEC's response to issue 42.

5. Issue 10: If the Commission does not reject PGE's rate filing, the Commission should adopt AWEC's recommendation to split director's fees and expense between shareholders and ratepayers.

PGE seeks to recover approximately $3.7 million of expense related to directors' expense.[74] AWEC recommends that the Commission adopt AWEC's recommendation to split

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70 CUB Position Statement at 3:1-2.
71 PGE Position Statement at 7.
72 AWEC/100 Mullins/48:15-16.
73 *See AWEC/100, Mullins/47:17-48:16; AWEC/300, Mullins/37:7-9).*
74 PGE Position Statement at 7.

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directors' fees 90/10 between shareholders and ratepayers to accurately reflect the divergent interest between shareholders and ratepayers. It is undisputed that directors have a fiduciary duty to shareholders.[75] It follows that when the interests of shareholders and ratepayers diverge, the board of directors acts in the interests of shareholders. As such, it is reasonable for shareholders and ratepayers to share in both directors' fees and expenses. Because directors' activities are predominantly for the benefit of shareholders, it is further reasonable for directors' fees to be split 90/10 between shareholders and ratepayers.

PGE fails to substantively rebut AWEC's recommendation. Furthermore, PGE recognizes directors' "fiduciary responsibility to shareholders,"[76] as well as the Washington Utilities and Transportation Commission's policy of sharing expenses between shareholders and customers.[77] In response to AWEC's recommendation, PGE cites to a lack of explicit Oregon policy and simply states that "[t]hese expenses are critical for federal compliance and the guidance of a well-qualified Board of Directors supports PGE customers in many ways."[78] AWEC does not necessarily disagree with this, which is why it has proposed that customers bear a portion of the cost. The Company does not, however, provide credible evidence that directors' actions are not primarily for the benefit of shareholders, which underlies AWEC's recommendation.

D. Capital Projects

1. Issue 11: If the Commission does not reject PGE's rate filing, the Commission should require project attestations for plant put in service by December 31, 2024.

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[75] UE 435, PGE/2500, Mersereau–Van Oostrum–Batzler/29:5-6;AWEC/300 Mullins/34:18-19.

[76] *Id.,* Mersereau –Van Oostrum–Batzler/29:6-7

[77] *Id.* at 29:7-8.

[78] PGE Position Statement at 14

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In accordance with ORS § 757.355(1) and to ensure that PGE is held accountable for its forecast assumptions, the Commission should require PGE to submit a project-by-project capital attestation to ensure that all plant included in rates is used and useful by the January 1, 2025 rate effective date. Although PGE has agreed to provide project attestations,[79] PGE proposes parameters that are contrary to the purpose of an attestation as well as applicable law, and should therefore by rejected.

PGE's proposed five parameters are as follows: (1) Include capital projects and amounts included in PGE's May 2024 rate case filing update and reviewed in the evidentiary process; (2) Only include projects placed in service between October 1 and December 31, 2024; (3) Include a $3 million forecast project cost threshold on a project-by-project basis for inclusion in the process;[80] (4) Include a one-time attestation filing and rate adjustment 45 days after the rate effective date; and (5) The attestation be performed on a portfolio basis with the ability to net over spending on a one project with underspending on another.[81] AWEC does not oppose PGE's first parameter, but continues to recommend that the Commission reject PGE's proposed parameters (2)-(5) for the reasons set forth in the subsections below, and instead adopt AWEC's proposals to ensure that rates only include capital that is prudent, and used and useful in accordance with ORS § 757.355(1).

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79 *See* UE 435, PGE/1300, Batzler-Meeks/64:4-6.

80 PGE revised its initial proposal of a $5 million threshold to $3 million in Surrebuttal. *See* UE 435, PGE/2400 Batzler-Meeks/49:21; *see also* PGE Position Statement at 8.

81 PGE/2400, Batzler - Meeks /48:6-15

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2. Issue 11(a): Projects with capital costs greater than $1,000,000 should be reviewed on a project-by-project basis; projects with capital costs less than $1,000,000 should be reviewed on a portfolio basis.

Projects with capital costs greater than $1,000,000 should be reviewed on a project-by-project basis, with no ability to net overspending on one project with underspending on another.[82] Projects with capital budgets of less than $1 million should be reviewed on a portfolio basis.[83] PGE's proposed parameter (3), a threshold of $3 million, is less reasonable than AWEC's $1 million threshold because it will subject only a portion of the capital included in PGE's filing to a project specific capital review. A more inclusive threshold is appropriate to ensure that the Company is held accountable for its use for its forecasts.

3. Issue 11(b): All plant included in rates by the January 1, 2025, rate effective date should be subject to attestation.

All plant included in rates by the January 1, 2025, rate effective date should be subject to attestations.[84] The Commission should reject PGE's proposed parameter (2) because it would fully exclude projects placed into service prior to October 1, 2024, from capital review. This outcome is contrary to ORS § 757.355(1) and therefore unacceptable. "The purpose of the attestation is to ensure, consistent with Oregon policy, that all plant included in rates is used and useful and meets the standard of prudence. These policies apply equally whether the plant is placed into service prior to October 1, 2024, or after."[85] PGE asserts that "parties have had ample opportunity to ask on the to-date status of projects to assess prudence."[86] This, however, is untrue

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[82] *See* AWEC/300, Mullins/18:2-3, 20:14-15.
[83] *Id*.
[84] *See* AWEC/100, Mullins/4:7-9.
[85] AWEC/300, Mullins/19:15-17.
[86] PGE/2400, Baltzar-Meeks/48:18-19

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because Parties filed Opening testimony in July 2024 and the most up-to-date capital forecast at that time was based information available through May 1, 2024.[87] Further, the primary purpose of the attestation is to demonstrate whether plant is used and useful by the rate effective date, so the information parties had at the time they filed testimony is also irrelevant. Plant is either used and useful, or it is not; and parties' review in testimony does not implicate that reality.

4. Issue 11(c): The Commission should order PGE to execute a provisional capital attestation filing approximately 15 days before the rate effective date and a final capital attestation 45 days after the rate effective date.

The Commission should reject PGE's proposed parameter (4) and instead order PGE to execute a provisional capital attestation filing approximately 15 days before the rate effective date and a final capital attestation 45 days after the rate effective date.[88] PGE parameter (4) is concerning for the same reasons discussed above, as it is possible that rates will include projects that were not used and useful for the 45 days between the rate effective date established in this proceeding and the final attestation. Comparatively, AWEC's proposal that PGE be required to provide two attestations minimizes the possibility that rates will include projects that are not used and useful because the capital that will be transferred to plant close to the rate effective date will be known.

5. Issue 11(d): The attestation process should not allow for netting of both over and under-budget project spending.

PGE parameter (5) is unclear and inconsistent as it relates to parameter (3). PGE states that its attestation proposal is "a review of each individual Capital Project,"[89] which AWEC

[87] *Id.,* Baltzar-Meeks/48:6-10.
[88] *See* AWEC/300, Mullins/18:6-9.
[89] UE 435, PGE/2400, Batzler-Meeks/50:12-13.

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agrees with, but then further states that the attestation process must "reflect a neutral over/under budget to actual cost position."[90] In other words, PGE request ability to net overspending on one project, with underspending on another. This request is inconsistent because it is not a project-by-project review; it is, by definition, a portfolio review. According to PGE "[a] one-sided attestation process would run counter to the balanced regulatory compact equation assumed by those who are funding these projects…[and] Parties have had since February to review most of the projects in this case and since May to review the few project updates that were made at that time…Any issues of imprudence should have been reviewed and identified during the proceeding."[91]

PGE fails to acknowledge that parties review the prudence of projects at the cost level PGE provides. Here, PGE is proposing that the Company be able to recover cost overages on a project so long as that overage is offset by underspend on a different project. However, the fact that parties may have had the opportunity to review the prudence of a project at an assumed cost does not mean that the same project is prudent at a higher cost. Parties won't know the actual cost of the project until it is placed in service, so they will not have had the opportunity to determine if the project remains prudent at the higher cost. Therefore, PGE's parameter (5) conflicts with the Commission's practice for determining prudence. Furthermore, parties have had no time to review the actual transfers to plant since PGE's May update, and the Company was unable to provide these transfers beyond August by the time of the hearing, nor was it able to provide comparisons to, or calculate the revenue requirement impact of, any variances between these transfers and the

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90 *Id.,* PGE/1300, Batzler-Meeks/64:15-16.
91 PGE Position Statement at 9 (internal citations omitted).

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May capital forecast.[92] Underspending or under-execution of one project, does not mean that overspending on another is prudent.[93] AWEC clearly demonstrated that PGE's proposal will result in it recovering potentially imprudent costs from ratepayers, and therefore, should be rejected.[94]

E. Constable and Seaside Energy Storage Projects

1. Issue 16(a): Authorization of PGE's proposed tracker for the Constable Battery Project would constitute unfair single-issue ratemaking and should be rejected.

As of its surrebuttal testimony, PGE requests that the Commission authorize a tracker to allow its Constable Battery Project to be incorporated into customer rates if it comes online as late as February 28, 2025, two months after the rate effective date of this case.[95] Such treatment constitutes unfair single-issue ratemaking and is therefore unreasonable.[96] "[S]ingle-issue ratemaking occurs when utility rates are adjusted, in isolation, for a specific change in a particular cost or revenue item or category"[97] and is "typically disfavored."[98] As explained by the Commission, "single-issue ratemaking presents certain risks and shortcomings in the regulatory process, and adds increased risks to customers that rates depart from being cost-based and subject to the normal reviews for overall reasonableness."[99]

Rather than address AWEC's single-issue ratemaking concerns, PGE asserts that requiring the Company to "potentially incur more than a year's worth of regulatory lag on an asset

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92 AWEC/521.
93 AWEC/300, Mullins/20:13-21:8.
94 AWEC/300, Mullins/20:13-21:8.
95 PGE/2200, Liddle-Kliever/3:17-21.
96 *See* AWEC/300, Mullins/43:3-7.
97 2020 ORE. PUC LEXIS 277, *16
98 *Id.*
99 *Id.,* *24.

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valued at over $157 million…is unreasonable and fails to consider the financial implications and operational realities of such a significant investment."[100] However, PGE had the opportunity to file this case in a manner that would have provided a sufficient buffer with respect to the in-service date of Constable, but chose not to. PGE fails to explain why it is customers that should bear the cost and risk of this decision, which was PGE's alone to make. To require customers to shoulder the costs associated with PGE's decision is unreasonable and unsupported by Commission precedent. The Commission has recognized that "the regulatory lag is a regular aspect of utility ratemaking, and does not necessarily prevent a utility from maintaining a healthy credit rating or attracting capital."[101] For this reason, "[t]he risk and extent of the effect of regulatory lag is commonly evaluated and understood by those who invest capital in utilities."[102]

Thus, to overcome the standard ratemaking process and justify a tracker, PGE should at least be required to present compelling evidence that unique circumstances require special treatment. All PGE can muster, however, is that the timing of the rate case it chose to file does not align with the in-service date of a project it selected. If that constitutes sufficient evidence to deviate from the standard ratemaking process, then anything could justify the use of a tracker. The Commission should reject PGE's Constable tracker thereby requiring PGE to assume the risk associated with the Company's proposal.

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100 UE 435, PGE/2200, Liddle-Kliever/16:6-9.

101 Docket No. UM 1909, Order No. 20-147 at 13 (Apr. 30, 2020).

102 *Id.*

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2. Issue 17(a): Authorization of PGE's proposed tracker for Seaside Battery Project would constitute unfair single-issue ratemaking and should be rejected.

For the reasons set forth in response to Issue #16(a), the Commission should reject PGE's proposed tracker for the Seaside project as well.[103] Arguably PGE's requested tracker for Seaside is even more egregious, as the Seaside Project is not expected to come online until the middle of 2025.[104]

3. Issue 18: The amortization period included in PGE's initial filing should apply to ITCs for Constable, if it is included in the final revenue requirement.

If Constable is placed into service period to the rate effective date, the amortization period included in PGE's initial filing should apply, such that PGE monetizes the ITCs in 2025 and returns the sales value to customers with 35% of the total value provided to customers in the first year and reduced by an equal amount each year thereafter until year five, at which point the credits will have been fully amortized.[105] Accelerating the ITCs over this period is reasonable given the rate pressures proposed by the Company. PGE agrees that if it opts out of normalization, it can accelerate the amortization of ITCs without violating IRS requirements.[106] Notably, AWEC's recommendation only applies to Constable, and only to the extent Constable is included in revenue requirement in this case. Since AWEC recommends Seaside not be considered in this case, it recommends that the ITCs related to Seaside be considered in a later docket.

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[103] *See* AWEC/300, Mullins/43:3-7.
[104] PGE/2200, Liddle-Kliever/14:5-7.
[105] *See* AWEC/300, Mullins/45:21; UE 435, PGE/500, Felton/30:9-12.
[106] AWEC/512 (PGE Response to AWEC DR 211).

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4. Issue 18(a): The ITC should not be amortized through a separate schedule.

AWEC recommends that, consistent with PGE's Reply Testimony, ITC's be considered in base rates, and not recovered through a separate tracker schedule.[107] Such a tracker is unfair to ratepayers because the amortization balance would earn carrying charges at a rate less than PGE's authorized cost of capital, whereas PGE will otherwise earn its full return on the underlying plant.[108] A tracker is also unfair to ratepayers because it would allow PGE would capture the declining rate base liability balances of the unamortized ITCs between rate cases, without considering other potentially offsetting changes that occur between rate cases, such as the declining net plant balances of the battery systems themselves.

5. Issue 18(b): The ITC should be amortized over five years.

The Commission has the ability to accelerate ITC amortization in this case, without violating IRS normalization requirements.[109] Given the compounding effects of this docket, the ongoing Annual Update Tariff Docket No. UE 436, and the previously settled rate increase in Docket No. UE 416, ratepayers are under severe rate pressure. Considering this, AWEC believes it is in the public interest for the Commission to exercise its ability to amortize ITCs from Constable consistent with the schedule proposed in PGE's initial filing.[110] PGE found that amortization period to be reasonable when it filed its case, but walked back that proposal, after parties demonstrated the unreasonable aspects of its tracker mechanism, such as the lower rate of

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107 AWEC/300, Mullins/45:11-13; PGE/1300, Batzler-Meeks/31:19-32:2.
108 AWEC/100, Mullins/6:4-6
109 AWEC/512 (PGE Response to AWEC DR 211).
110 *See* AWEC/300, Mullins/45:21; UE 435, PGE/500, Felton/30:9-12.

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return on the unamortized ITC rate base amounts.[111] AWEC was supportive of the amortization period in PGE's initial filing and requests the Commission approve it.

6. Issue 18(c): The value of the ITC to be refunded to customers should be the full amount.

PGE proposes that the value of the ITC refunded to customers be equal to the actual value of the ITCs received net of the cost to sell up to 10% of the sale value.[112] AWEC disagrees and recommends that the value of the ITC should be the full amount. As an initial point, PGE's proposal to discount the ITCs by 10% was not supported by substantive testimony. Notably, it is possible that PGE may sell the ITCs given that the Company may not be able to use them based on its tax liability. As such, if PGE is required to monetize the ITCs, the discount on the sale and the associated accounting should be determined at the time of sale.

PGE argues that AWEC has changed its position on this issue, having previously supported the sale of production tax credits ("PTCs") at up to a 10% discount in a prior settlement agreement.[113] AWEC's position in a settlement agreement is, of course, not relevant to whether PGE's sale of ITCs in this case at up to a 10% discount would be reasonable. Parties can only determine the reasonableness of PGE's actions after-the-fact, as occurs with all prudence reviews because parties and the Commission do not know beforehand what the market for ITCs is and what sale options PGE has. PGE should bear the burden to act reasonably with respect to the ITCs and justify its actions later.

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[111] *See* AWEC/100, Mullins/66:3-67:12.
[112] PGE Position Statement at 12.
[113] PGE/2400, Batzler-Meeks/17:16-21.

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7. Issue 18(d): PGE has agreed to opt out of Investment Tax Credit (ITC) normalization for ITCs associated with Seaside.

According to PGE, "this is [not] an issue that needs to be addressed by the Commission since PGE…'does not believe [it] need[s] to opt out of normalization if [PGE] [is] selling the credits.'"[114] Nevertheless, PGE confirmed that "to the extent an opt out is required,"[115] the Company "would opt out of normalization in order to obtain the treatment of the ITCs as proposed."[116] Accordingly, AWEC believes this issue is resolved, although, of course, if an opt-out is required and PGE does not act in the manner that it has stated, then the Commission should take remedial action at that time.

F. Non-labor Operations and Maintenance (O&M) expense

1. Issue 20: The amount proposed by PGE for non-labor generation O&M should be reduced by $5,790,011.

PGE requests recovery of $93.7 million of non-labor generation O&M expense in 2025.[117] AWEC recommends that the Commission order PGE to limit its budget, with the exception of Clearwater O&M and the major maintenance accrual, to the annual rate of inflation, which reduces PGE's non-labor O&M expense by $5,790,911.[118] PGE's request for recovery of non-labor generation O&M expense in 2025 should be rejected because it is based on a method of calculation that is unverifiable and contrary to traditional ratemaking standards. As evidence in support of this increase, PGE has escalated in 2024 budget approved through settlement in UE 416 to determine its 2025 forecast. AWEC has shown in testimony that PGE's method is

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114 PGE Position Statement at 13 (internal citations omitted).
115 PGE Position Statement at 13.
116 UE 435, PGE/2400, Batzler-Meeks/16:14-15.
117 PGE Position Statement at 13.
118 *See* AWEC/100, Mullins/31:14-32:1,6; AWEC/300, Mullins/26, Table REB-2.

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fundamentally flawed and contrary to a traditional revenue requirement study.[119] As explained in response to Issue #55, PGE's request for recovery must be based on evidence submitted in this docket, including PGE's actual costs. PGE has failed to present such evidence. To remedy this issue, the Commission should order PGE to limit its budget, with the exception of Clearwater O&M and the major maintenance accrual, to the annual rate of inflation.[120]

Specifically, to determine the Company's proposed non-labor generation O&M increase, PGE relied on the UE 416 revenue requirement[121] and then "escalated from its 2024 budget using nuanced escalators for each cost element and adjusting this for known and measurable changes."[122] According to PGE, the Company has "formulated its 2025 forecast as accurately as reasonably possible."[123]

Contrary to PGE's assertion, the Company's method of determining its 2025 forecast is not reasonable. The UE 416 revenue requirement was a product of a black box settlement. In accepting the UE 416 stipulation the Commission did not approve PGE's 2024 budget as a reasonable starting point for future rate cases. PGE argues that the Commission should reject AWEC's adjustment because AWEC performed "unnuanced escalation."[124] This is, however, inaccurate. Unlike PGE, AWEC reviewed the Company's actual non-labor O&M expense incurred in 2023 and compared those expenses to PGE's budgeted expenses for 2025. Because AWEC's adjustment is based on actuals, rather than the Company's 2024 budget, the Commission

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119 *See* AWEC/100 Mullins/8:12-9:5.
120 *See Id.,* Mullins/31:14-32:1,6; AWEC/300, Mullins/26, Table REB-2.
121 UE 435, PGE/2800, Powell–Clark–Mead/5:16-20.
122 PGE Position Statement at 13
123 *Id.* at 13-14 (internal citations omitted).
124 *Id.* at 13.

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should order PGE to limit its budget, with the exception of Clearwater O&M and the major maintenance accrual, to the annual rate of inflation.

2. Issue (20)(a)-(b): The amount proposed by PGE for general A&G expenses should be reduced by $4,585,715.

PGE seeks recovery of approximately $221.7 million of A&G expense.[125] AWEC recommends that PGE's general A&G expense should be reduced by $4,585,715. As set forth herein, PGE's increase to non-labor A&G expense is based on a budget and is therefore an unreasonable starting point to determine the Company's proposed increase. Rather, the Commission should limit PGE's increase to non-labor A&G expense to two years of inflationary escalation based on the most recent Federal Reserve Federal Open Market Committee forecast (2.6% for 2024 and 2.3% for 2025).[126]

3. Issue 20(d): The Commission should order PGE to split directors' fees 90/10 between shareholders and ratepayers.

Please see AWEC's response to issue #10.

4. Issue 22(a): The Commission should remove revolver fees from revenue requirement.

PGE's revenue requirement includes $2,157,244 of revolver fees.[127] AWEC recommends that revolver fees be removed from revenue requirement, resulting in a reduction of $2,234,294 to revenue requirement. Revolver fees should be removed from revenue requirement such that the cost incurred by ratepayers match the benefits received. AWEC has presented evidence that ratepayers do not receive the financing benefits associated with the underlying credit

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125 PGE Position Statement at 14.
126 AWEC/100, Mullins/35:21-36:4.
127 *See* UE 435, PGE/2502, Mersereau-Van Oostrum-Batzler/3.

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lines in base rates for revolver fees.[128] In support of its inclusion of revolver fees in revenue requirement, PGE cites to Order No. 10-410, and simply states that "[t]his would leave these expenses to be recovered within GRCs, consistent with the stipulation between PGE, Staff, and Parties in UE 215 and adopted through Commission Order No. 10-410."[129] PGE's assertion that these items have been resolved as a part of a settlement stipulation is not accurate, nor is it relevant to the reasonableness of including those amounts in revenue requirement going forward. Revolver fees are an interest expense,[130] and interest expense is already recovered through PGE's cost of capital. When paid, revolver fees are accrued on PGE's balance sheet as a Miscellaneous Deferred Debit in Account 186.[131] The balances are then amortized to expense over time as an interest in Account 431.[132] Therefore, providing additional recovery of revolver fee interest through operating expense is unnecessary and duplicative because interest expense is already recovered through PGE's cost of capital. The fact that these particular interest expenses relate to short-term debt does not contradict this conclusion. It only furthers it. Ratepayers do not receive the benefit of short-term debt in the cost of capital formulation. Therefore, it is not reasonable for them to pay the portion of the short-term debt interest expenses associated with revolver fees in base rate revenue requirement. To the contrary, the cost of short-term debt is recovered through Allowance for Funds Used During Construction ("AFUDC").[133] The formula for AFUDC is described in the Uniform System of Accounts, Electric Plant Instructions, Paragraph 3(17)(a), shown below.[134]

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128 *See* AWEC/100, Mullins/4:17-19; AWEC/300, Mullins/29-30
129 PGE Position statement at 15 (internal citations omitted).
130 AWEC/514 (PGE Response to AWEC DR 213).
131 *Id.*
132 *Id.*
133 AWEC/300, Mullins/31:16-17.
134 See 18 CFR 101.

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$A_i = s(S/W) + d(D/D + P + C)(1 - S/W)$

$A_e = [1 - S/W][p(P/D+P+C) + c(C/D+P+C)]$

A_i = Gross allowance for borrowed funds used during construction rate.
A_e = Allowance for other funds used during construction rate.
S = Average short-term debt.
s = Short-term debt interest rate.
D = Long-term debt.
d = Long-term debt interest rate.
P = Preferred stock.
p = Preferred stock cost rate.
C = Common equity.
c = Common equity cost rate.
W = Average balance in construction work in progress plus nuclear fuel in process of refinement, conversion, enrichment and fabrication, less asset retirement costs (See General Instruction 25) related to plant under construction.

In the formula “Ai = s(S/W) + d(D/D + P + C)(1−S/W),” the first term “s(S/W),” applies short-term debt interest against the cost of borrowed funds for construction before applying other cost of capital components (debt, preferred stock, and common stock). In other words, 100% of short-term debt costs are recovered first through AFUDC prior to any other financing costs. When calculating short term debt costs, FERC allows utilities to include the cost of revolver fees (which it refers to as commitment fees) in AFUDC.[135] PGE acknowledges that it is allowed to include revolver fees in the cost of short term debt in AFUDC, but that it has not yet requested permission to do so.[136] PGE’s failure to request permission from FERC to recover those costs, however, does not mean that the revolver fee interest expense costs should by default be included in operating expense in base rate revenue requirement. Rather, if PGE desires to recover the revolver fee interest expense, it needs to seek the appropriate permission from FERC, which PGE has had, and will have, ample opportunity to do prior to the rate effective period. Considering the

135 AWEC/500 at 41 (United States of America Federal Energy Regulatory Commission, 2018 Report on Enforcement, Docket No. AD07-13-012).
136 AWEC/514 (PGE Response to AWEC DR 213).

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foregoing, AWEC recommends the Commission exclude from revenue requirement PGE's operating expense adjustment associated with revolver fees expenditures.

5. Issue 22(b): The Commission should remove margin net interest from revenue requirement.

PGE includes $1,220,696 of net alleged interest expense paid on margin deposits of its counterparties in revenue requirement. AWEC recommends that these amounts be removed from revenue requirement, which reduces revenue requirement by $1,264,295. Accordingly, similar to revolver fees, margin net interest should be removed from revenue requirement such that the cost incurred by ratepayers match the benefits received. AWEC has presented evidence that ratepayers do not receive the corresponding financing benefit from the customer funds advanced with respect to margin net interest.[137] Not only is PGE's calculation of the purported interest expense nonsensical, but historically, PGE has actually recorded interest revenues (not an expense) related to commodity margin balances.[138] Rather than including this historical benefit as a reduction to revenue requirement, PGE resorts to a complicated and illogical calculation that imputes interest cost that is different from the interest benefit that it has historically accrued.[139] PGE does not hold these balances in an account that accrues interest expense.[140] The amounts are imputed based on a formula using data from 2023, which includes letter of credit balances, funds which PGE is not obligated to provide.[141] Again, PGE cites to Order No. 10-410 as support for its inclusion of these expenses. However, Commission Order No. 10-410 has no bearing on the

137 See AWEC/100, Mullins/4:20-22; AWEC/300, Mullins/31-32.
138 AWEC/300, Mullins/31:21-22
139 *Id.*, Mullins/32:5-14
140 *Id.,* Mullins/32:2-3.
141 AWEC/513(PGE Response to AWEC DR 212).

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reasonableness of PGE's calculation going forward. Accordingly, margin net interest should be removed from the revenue requirement to accurately match costs incurred by ratepayers to benefits received.

6. Issue 22(c): The Commission should remove broker fees from revenue requirement.

PGE includes $133,318 of broker fees in its revenue requirement. AWEC recommends that broker fees should be removed, which results in a reduction to revenue requirement of $138,080. Specifically, PGE confirmed that PGE records broker fees as an outside service expense.[142] Additionally, PGE's 2025 budget includes a provision in Account 557 for outside service expenses. Further, PGE confirmed that broker fees are recorded in Account 557.[143] Therefore, because broker fees are included in PGE's proposed budget, no separate revenue requirement adjustment is necessary. While PGE asserts that it has not included a line item in its budget for broker fees,[144] this assertion has no merit. The budget PGE provided was not granular enough to determine which particular outside service expenses recorded to Account 557 were increasing or decreasing in its budget.[145] Rather, PGE proposed increasing outside services expenses in Account 557 by $1,064,934 or 25%, relative to 2023 actuals.[146] The 2023 actuals already included the $133,318 cost of broker fees. Therefore, no separate adjustment is required for PGE to be able to reasonably recover the cost of broker fees in revenue requirement. Effectively, PGE is arguing that its budget should have been higher due to the exclusion of broker

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142 PGE Response to AWEC DR 177.
143 PGE Response to AWEC DR 178.
144 PGE/2500, Mersereau –Van Oostrum – Batzler /40, Table 2.
145 *See* AWEC/515 at 1-3 (PGE Response to AWEC DR 215 and Attachment A).
146 *Id.* at 3.

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fees, an argument that undercuts the very reasonableness of the budget to begin with. And, certainly, AWEC's revenue requirement, which uses escalated actual operating results as the basis for operating expenses, requires no separate adjustment for broker fees, as those are already considered in the actual results AWEC used. As such, the Commission should remove broker fees adjustment from revenue requirement.

G. Transmission & Distribution

7. Issue 23: the Commission should require PGE to hold its non-labor routine vegetation management budget flat between 2024 and 2025.

PGE represents that it is requesting an increase of $4.8 million for routine vegetation management expenses.[147] AWEC recommends that the Commission require PGE to hold its non-labor routine vegetation management budget flat between 2024 and 2025, which reduce PGE's overall non-labor distribution expense by $4,290, 307. Specifically, PGE's request to increase routine vegetation management expenses should be rejected because it is based on a budget and therefore unverifiable. As explained in detail in response to Issue #55, PGE's proposed increase to non-labor O&M for distribution accounts, specifically routine vegetation management expenses, is concerning given that it is based on a budget. As noted above, in this proceeding, PGE represents that its routine vegetation management expense is only increasing by $4.8 million.[148] However, that amount is based off of a budget and is therefore an inaccurate representation when comparing back to PGE's 2023 actual costs. Accordingly, as compared to 2023 actuals, PGE is proposing to increase its vegetation management expense budget from

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[147] *See* Exhibit PGE/400 Workpaper "2025 GRC T&D O&M Workbook" Tab "RVM".
[148] *See Id.*

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$29,974,774 to $58,070,624, which represents a $28,095,850 or 94% increase.[149]

PGE's method to determine cost increases based on budgets is concerning because if accepted, it is likely that PGE will execute on the elevated budget. Such a conclusion is supported by evidence in the record. Specifically, year to date, PGE has spent $22,889,521 on routine vegetation management through April 2024.[150] As such, AWEC recommends that the Commission order PGE to hold its non-labor routine vegetation management budget flat between 2024 and 2025 and that the effectiveness of PGE's heighted spending be evaluated prior to any approved budget increases. AWEC's recommendation reduces PGE's overall non-labor distribution expenses by $4,290,307.

H. Taxes

8. Issue 27: The Commission should order PGE to remove Production Tax Credit ("PTC") carryforwards from rate base.

PGE requests $35.7 million in accumulated deferred income taxes associated with PTC carryforwards forecast on December 31, 2024.[151] As set forth herein, AWEC recommends the Commission order PGE to eliminate the PTC carryforwards included in rate base, thereby reducing revenue requirement by $10,183,870.[152] It is not reasonable to include PTC carryforwards in rate base in this case given PGE's proposal to sell credits on an ongoing basis in Docket No. UP 426. There is consensus among parties that the PTC carryforward balance has been declining materially due to the Docket No. UP 426 transactions. Correspondingly, while PGE would be recovering the discount associated with the cost of selling PTCs from ratepayers,

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149 AWEC/100, Mullins/29:6-11.
150 Exhibit AWEC/103, Mullins/48 (PGE resp. to Staff DR 338, Attachment A).
151 PGE Position Statement at 17 (internal citations omitted).
152 *(See AWEC/100, Mullins/50:18-51:3).*

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the Company is not deferring the benefit of the rate base reductions that resulted from doing so.[153] Given that the cost of PTC carryforwards are now being considered outside of revenue requirement, it is reasonable for PTC carryforwards to be removed from rate base as well.

In the alternative and in order to ensure that ratepayers receive the benefit of the declining PTC carryforward balance between rate cases, AWEC recommends that either: 1) the Commission order PGE to suspend the collection of the discount on monetized PTCs through Schedule 105 so that ratepayers do not pay for the discount on PTCs if they are not receiving the corresponding rate base reduction associated with the sales;[154] or 2) defer the benefit of the PTC carryforward reductions associated with PTC sales between rate cases.[155]

9. Issue 28: The accumulated deferred income taxes ("ADIT") associated with the emergency wildfire and storm deferrals should be considered in rate base.

According to PGE, "[i]t is not appropriate to include to include an [accumulated deferred income taxes ("ADIT")] benefit in base rates for these deferred amounts."[156] AWEC recommends that the ADIT associated with the emergency wildfire and storm deferrals be considered in rate base, which results in a $2,474,019 reduction to revenue requirement. PGE asserts that inclusion of an ADIT benefit in base rates for these deferred amounts is in inappropriate because "[t]he major storms docket UE 408 was resolved through Commission Order No. 22-435, which resolved 'all issues related to the 2021 deferred costs for the wildfire and ice storm events.'"[157] However, the ADIT impact associated with the emergency wildfire and

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153 (*See AWEC/100, Mullins/50:18-51:3).*
154 *(See AWEC/300, Mullins/39:12-15).*
155 *(See AWEC/300, Mullins/39:20-21).*
156 PGE Position Statement at 18.
157 PGE Position Statement at 18.

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storm deferrals were not addressed in Order No. 22-435, which PGE does not dispute.[158] Therefore, considering the ADIT associated with the emergency wildfire and storm deferrals in rate base is reasonable because PGE was able to deduct the costs associated with the emergency wildfire and storm deferrals at the time the expenditures were made, and therefore they represented a major tax benefit to PGE. It is not disputed that PGE has recognized a major tax benefit associated with the deduction of wildfire and ice storm events. Since ratepayers have agreed to reimburse PGE for the costs associated with those events, they must receive the benefit associated with the corresponding ADIT, lest they are paying for a cost but not receiving the corresponding benefit of those payments. Otherwise, PGE will recognize a windfall from the deferral by being able to claim all of the ADIT tax benefits, while being reimbursed fully for the deferred costs. In the absence of a deferral, PGE would not be able to recover any of the ice storm and wildfire funds, but would be able to retain 100% of the tax benefits. Where the costs are being deferred, however, the ADIT tax benefits should flow to ratepayers.

10. Issue 29: The Commission should order PGE to consider both the rate base and the amortization benefit of the Anderson Readiness Center investment tax credits ("ITCs") in revenue requirement.

PGE proposes "[a]n amortization credit amount of $49,344, reflected as a reduction to tax expense, which represents 1/10th of the ITC; a deferred credit within rate base of $415,308, to reflect the unamortized deferred ITC as of December 31, 2024; and An offsetting increase to rate base of $493,436 for the Deferred Tax Asset associated with the unutilized ITC as of December 31, 2024."[159] AWEC recommends that the Commission reject PGE's proposal

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[158] AWEC/300 Mullins/40:14-17.
[159] PGE Position Statement at 18.

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regarding how the rate base and amortization benefit of the Anderson Readiness Center ITCs should be considered in revenue requirement. Based on the assumption that PGE will opt out of the ITC normalization requirements, AWEC's recommendation reduces revenue requirement by $122,312.[160] AWEC's recommendation is reasonable given that PGE is selling its PTCs, and therefore, the Company will be able to utilize tax credits associated with the Anderson Readiness Center in 2025. Further, the Commission has full authority to begin amortization of these ITCs because PGE agreed to opt out of normalization.[161] Accordingly, the Commission should order PGE to consider both the rate base and the amortization benefit of these ITCs in revenue requirement.

I. Rate Spread/Rate Design

1. Issue 31: The Commission should adopt AWEC's five changes to PGE's generation marginal cost study.

For rates to be fair, just and reasonable, AWEC recommends the Commission adopt the following five changes to PGE's generation marginal cost study. First, the Commission should require PGE to remove the capacity value from the cost of wind and solar resources when estimating the cost of energy and not remove the capacity value of wind and solar from battery resources.[162] This modification is reasonable for the following three reasons: 1) such modification is consistent with the standard marginal cost of generation methodology;[163] 2) PGE's model is flawed because modeling energy resources with high effective load carrying capability ("ELCC"),

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160 AWEC/100 Mullins/57:22-58:3.
161 AWEC/300 Mullins/42:19-20.
162 *(See AWEC/200, Kaufman/6:7-12:7; AWEC/400, Kaufman/1:19-5:9).*
163 AWEC/200 Kaufman/11:7-10.

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such as hydro, hybrid solar and battery, hybrid wind and battery, and geothermal resources, results in a finding that capacity costs are zero; and 3) PGE's model mismatches the cost of capacity with the amount of capacity served.[164]

Second, the Commission should require PGE to use firm transmission for all resources assumed in the marginal cost study.[165]

Third, the Commission should require PGE to use local wind and solar resources when modeling the cost of energy.[166] Local wind has a lower ELCC than non-local wind, which is more representative of an energy resource and requires less adjustment to account for capacity value.[167] Additionally, modeling local wind will result in more accurate transmission costs.[168] Modeling local solar resources is reasonable in order to avoid the high transmission costs associated with non-local solar.[169]

Fourth, the Commission should require PGE to not reduce capacity costs of storage resources by their flexibility value.[170]

Finally, the Commission should require PGE to use the Intermediary GHG market prices to price Mid-C purchases in the cost of service model and modify the weights on wind, solar, and Mid-C energy cost to total 100%.[171] Such a modification would resolve AWEC's concerns that the Mid-C prices used in PGE's marginal cost model reflect capacity value rather

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164 *Id.* at 10-11.
165 *See AWEC/200, Kaufman/12:8-13:16; AWEC/400, Kaufman/5:10-8:8).*
166 *(See AWEC/200, Kaufman/14:1-16:2; AWEC/400, Kaufman/7:12-17).*
167 AWEC/200 Kaufman/14:14-16.
168 AWEC/200 Kaufman/15:1-3.
169 AWEC/200 Kaufman/15:10-12.
170 *See AWEC/200, Kaufman/20:10-21:7; AWEC/400, Kaufman/10:8-12:14).*
171 *See AWEC/200, Kaufman/16:3-20:9; AWEC/400, Kaufman/8:9-10:7).*

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than energy value, and that PGE escalates market prices using inflation rather than PGE's forward price curve.

2. Issue 32: The Commission should not adopt a cap or floor for class rate impacts.

Whether the Commission adopts caps and floors for specific customer rate impacts should be guided by the overall approved rate increase. If the Commission does not reject PGE's filing, but approves only a modest rate increase (or a decrease, as AWEC recommends), then establishing caps and floors would be unnecessary and would be overly stringent. For example, if the Commission approved an overall 2% rate increase and established caps and floors at 150% and 50% of the average, respectively, that would mean that no customer class would get higher than a 3% rate increase or lower than a 1% rate increase. If the purpose of caps and floors is primarily to prevent rate shock and promote gradualism, then a low overall rate increase obviates the need for these mechanisms, and it becomes more important to move classes closer to their cost of service. By contrast, if the Commission approves a high overall increase, then caps and floors may be warranted.

AWEC recommends that the Commission only institute a cap and floor if it approves an overall rate increase of 5% or more. Additionally, AWEC recommends that the cap and floor be at least 150% and 50%, respectively. A narrower band will go too far in elevating the principle of gradualism over the goal of customers paying rates consistent with their cost of service.

3. Issue 35: The Commission should adopt PGE's proposed revisions to the load following credit for Schedule 90.

PGE proposes to update the load following/integration price for Schedule 90 "to

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4.89 mills/kWh based on the flexibility value of a 4-hour battery in Docket LC 80, PGE's most recently acknowledged 2023 Integrated Resource Plan (IRP)."[172] AWEC supports PGE's proposal and recommends the Commission adopt the revised load following credit amount.

Staff and CUB oppose PGE's proposed revisions.[173] According to Staff and CUB, the record does not support the revised Load Following Credit.[174] However, both PGE and AWEC have provided the necessary evidence to support its proposal. As explained by the Company, "[i]t is imperative to update the Load Following Credit in this proceeding"[175] given that the current price was set over ten years ago,[176] and does not reflect the realities of PGE's statutory obligations to reduce carbon emissions.[177] An update to the credit is further justified given that "the inputs for the existing flexibility values are outdated and no longer applicable."[178]

Additionally, PGE has successfully rebutted Staff's concerns. Specifically, Staff argued that the Company did not provide "a convincing rationale for why the flexibility value of a lithium-ion battery is appropriate to use as a benchmark for this benefit."[179] In response, PGE explained that "a 4-hour battery is the marginal resource that provides flexibility in PGE's system." Staff further argued that the load following credit "may result in cross-class subsidization."[180] However, PGE has clearly explained that the load following credit "recognizes

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172 PGE/3100, Macfarlane-Pleasant/13:2-4.
173 Staff Position Statement at 16:11-13 (internal citations omitted); CUB Position Statement at 7:3-5.
174 *See id.*
175 PGE/2000, Macfarlane-Pleasant/17:10.
176 *Id.* at 13:4-5.
177 PGE/2000, Macfarlane-Pleasant/17:10-16.
178 PGE/2000, Macfarlane-Pleasant/17:19.
179 Staff/3000, Stevens/19:5-7.
180 Staff/2300 Dlouhy-Scala/7:14-17.

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the value provided by customers on Schedule 90 greater than 250 MWa."[181] Specifically, Schedule 90 customers "bring value to the rest of PGE's system by the stability of their loads."[182] This stability is due to the fact that Schedule 90 customers "do not have variations in load moment to moment within the hour, thus their load does not create nor contribute to forecast error when PGE's Balancing Authority is matching the real-time load to the expected forecasted load for the hour."[183] As PGE explained, "[t]his in turn helps fix problems that other customers that have variations within the minute and hour otherwise cause to PGE's system if Schedule 90's load was not stable. This is the flexibility value Schedule 90 brings to PGE's system."[184]

Further, in testimony AWEC has presented evidence that PGE's update to the load following credit is appropriate. Specifically, AWEC witness Dr. Kaufman discussed flexibility value regarding generation costs and explained that under both PGE's and AWEC's generation cost study, a substantial share of load following costs are allocated to Schedule 90.[185] AWEC's generation cost study allocates load following costs based on demand because there is a high correlation between flexibility needs and peak demand.[186] Dr. Kaufman went on to explain that Schedule 90 customers with flat load have material load during peak demand, but do not cause load following costs in these hours due to their load shape.[187] As such, the updated load following credit is reasonable under both PGE and AWEC's generation cost model. Given that both PGE and AWEC have presented compelling evidence in support of the revised load following credit,

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181 435/PGE/3100, Macfarlane-Pleasant/16:17-18.
182 PGE Position Statement at 22.
183 *Id.*
184 *Id.*
185 AWEC/400 Kaufman/14:11-14.
186 *Id.* at 14:14-15.
187 *Id.* at 15-17 (internal citations omitted).

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AWEC recommends the Commission adopt PGE's proposal.

4. Issue 36: PGE should not be required to apply Time of Use (TOU) to Schedule 90 customers.

PGE should not be required to apply Time of Use ("TOU") to Schedule 90 customers. The Commission should reject Staff's recommendation on this issue. As AWEC and PGE have explained, it is preferable to incentivize Schedule 90 customer to maintain a flat load rather than introduce a TOU rate,[188] "which PGE can plan for in [its] long-term power planning."[189] According to PGE, "[t]his benefits all customers by reducing PGE's short-term power costs needs, which are based on fluctuating loads day-to-day or seasonally."[190] Additionally, Staff has failed to provide a specific TOU design proposal, and it is not even clear that Schedule 90 customers can adjust their loads in a way that would take advantage of a TOU rate. Therefore, AWEC cannot evaluate the validity of a Schedule 90 TOU rate as recommended by Staff. To the extent that the Commission is interested in exploring a TOU rate, it should not be implemented until after AWEC has had the opportunity to review, analyze, and comment on the specific rate design, and after more is understood about the processes of Schedule 90 customers and their suitability for a TOU rate.

J. Customer Service Issues

1. Issue 41: PGE's proposed amount for non-labor Customer Accounts O&M should be reduced by $5,253,818.

PGE requests $26.2 million in non-labor O&M for Customer Accounts and

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188 *See AWEC/400 Kaufman/15:5-14;* PGE/2000, Macfarlane-Pleasant/13:22-14:2.

189 PGE Position Statement at 23.

190 PGE Position Statement at 23 (internal citation omitted).

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Services.[191] AWEC recommends Customer Service non-labor O&M be reduced by $5,253,818. As explained below in response to Issue #55, the primary concern and inexcusable flaw with PGE's increase to non-labor Customer Accounts O&M is that it is based on a budget and it is therefore it impossible for AWEC – and the Commission – to objectively evaluate the reasonableness of PGE's proposed costs. Accordingly, AWEC recommends that the Commission limit the increase for non-labor Customer Accounts O&M to the overall expense in these accounts to two years of inflationary escalation based on the most recent Federal Reserve FOMC forecast (2.6% for 2024 and 2.3% for 2025), thereby reducing non-labor O&M expense by $2,598,317.[192] As AWEC explained in testimony, the Commission should make a similar adjustment for Customer Service non-labor O&M as increases to both Customer Accounts and Customer Service expense is being driven primarily by outside services expenses.[193] Again, AWEC's recommendation would result in a reduction of $5,253,818 to Customer Service non-labor O&M.

2. Issue 42: The amount proposed by PGE for Key Customer Management labor O&M should be reduced by $700,000.

The Commission should reduce PGE's request for Key Customer Management ("KCM") labor O&M costs by $700,000 to reflect historical growth. The KCM department provides customer functions for individually managed large customers, including load forecasting and operations management.[194] PGE argues that no adjustment should be made because the increase in labor costs is "due to three additional positions- two added in 2024 and one transferred

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191 PGE Position Statement at 16.
192 *(See AWEC/100, Mullins/35:2-9).*
193 (*See AWEC/100, Mullins/32:7-34:2).*
194 PGE/700, Riter - Greene / 10:8-10.

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from another department in 2025" and is therefore reasonable.[195] However, as explained throughout this Opening Brief, PGE's proposed KCM increase cannot be properly evaluated to determine the reasonableness of the proposed increase given PGE's reliance on budgets to establish its costs for the test year. AWEC therefore recommends that the Commission reduce KCM costs by $700,000 to resolve this error and reflect historical cost growth.

K. Affordability, Income Qualified Bill Discount and other Environmental Justice Issues

1. Issue 50: The Commission should modify the current limit on Schedule 118 charges from a per Site limit to a per Customer limit for Schedule 90 and spread and recover IQBD costs based on revenue rather than load.

PGE runs an Income-Qualified Bill Discount ("IQBD") program that provides degrees of rate relief to customers depending on their income level relative to the state median income ("SMI").[196] This rate relief comes in the form of bill discounts of up to 60% for customers between 0% and 5% of SMI.[197] The costs of these discounts are borne by all other customers through Schedule 118. In this case, PGE forecasts that the IQBD program will cost $53.5 million.[198]

In PGE's last rate case, certain parties agreed to modify the cost cap on PGE's IQBD program from a flat $1,000 per month per site to a 20 million kWh usage cap per month per site.[199] The Commission adopted this settlement over AWEC's objection.[200] In doing so, it found that "there are a wide variety of acceptable ways of achieving an equitable distribution of costs, such

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195 PGE Position Statement at 27.
196 PGE Schedule 18.
197 *Id.*
198 AWEC/504.
199 Docket No. UE 416, Order No. 23-476, Appen. A at 2.
200 *Id.*, Order No. 23-476 at 8-11.

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that all customer classes contribute meaningfully to the IQBD program" and that "the percentage of bill basis for evaluating the relative contributions of each customer class [in the stipulation] [is] […] reasonable."[201] The Commission further noted that, in the absence of the stipulation it was considering, AWEC's recommendation to apply the 20 million kWh cap on a per-customer (rather than per-site) basis to Schedule 90 "might … be reasonable and well-taken."[202] The Commission stated that it was "cognizant of the concerns about increasing costs as the discount program reaches maturity, and the public policy concerns AWEC expresses on behalf of the single customer currently taking service under Schedule 90."[203] As such, it expressed a willingness "to continue to evaluate program design, cost recovery, and cost allocation as the IQBD program evolves, including revisiting the allocation we adopt in this stipulation."[204]

In this case, AWEC has made a two-pronged recommendation to modify the allocation of IQBD costs. First, it recommends that recovery be based on revenue rather than usage. Second, it again recommends that the 20 million kWh cap be applied to Schedule 90 on a per-customer rather than a per-site basis.[205] With AWEC's clarifications that the per-customer cap would apply only to Schedule 90 (both due to the high cost to this schedule and to mitigate administrative burden) and that direct access customers would be treated like cost-of-service customers for purposes of cost allocation, PGE does not oppose AWEC's recommendations.[206]

Moreover, AWEC's recommendations are consistent with the Commission's statements in

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[201] Order No. 23-476 at 10.
[202] *Id.*
[203] *Id.*
[204] *Id.* at 11.
[205] AWEC/200, Kaufman/32:5-8, 33:5-12; AWEC/400, Kaufman/15:18-16:1.
[206] PGE/2300, Sheeran-Latu-Newman/18:1-19:7.

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its order approving the IQBD settlement in the last rate case and with Staff's stated preference of determining an equitable allocation of costs based on bill percentage.[207] AWEC's recommendation results in the same bill percentage impact for all customer classes (1.7%) except Schedule 90 and direct access schedules.[208] Schedule 90 pays less as a percentage of its bill due to the cap and its application on a per-customer basis (0.5%), while direct access customers pay more since their energy costs are not included in PGE's charges.[209] Still, due to the size of the load on Schedule 90, a per-customer cap still results in these affected customers paying more than any other customer.[210] Thus, AWEC's proposal results in nearly all customer classes paying the same amount for IQBD cost recovery and ensures that all customers "contribute meaningfully" to this program.[211]

PGE does show that AWEC's recommendations will "shift IQBD cost recovery from large industrial rate schedules to residential and smaller commercial rate schedules."[212] But this is because under the current recovery method based on energy consumption, large industrial schedules are paying materially more to support the IQBD program than smaller schedules.[213] Schedule 89's rate impact as a percentage of its bill (2.8%) is more than double what residential and small commercial customers pay (1.3%). Thus, the true effect of AWEC's proposal is to rebalance rate recovery for the IQBD program.

L. Other issues.

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207 Staff/1900, Ayers/44:6-45:4.
208 AWEC/504.
209 *Id.*
210 *Id.*
211 Order No. 23-476 at 10.
212 PGE/2300, Sheeran-Latu-Newman/19:5-7.
213 AWEC/504.

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1. Issue 55(a): The Commission should reject PGE's rate filing in its entirety for the Company's failure to meet the requirements of ORS 757.210(1)(a) by not providing sufficient evidence that proposed rates are just, reasonable and in the public interest.

To be successful in this proceeding, PGE must provide substantial evidence that its proposed revenue requirement will result in just and reasonable rates.[214] PGE has failed to meet its burden of proof given that, in addition to the concerns raised above with respect to how PGE is measuring its rate base, the Company's proposed revenue requirement relies on a budget established in the previous rate case instead of starting with actual verifiable expenses.[215]

PGE did not provide actual historical costs in its rate case filing,[216] and asserts that "there is [no] requirement to provide pro forma financial statements based on actual financial results from a prior year."[217] This position may be a result of the fact that the Company's revenue requirement has not been litigated in at least 15 years.[218] In fact, PGE is the *only* Oregon utility that does not base its revenue requirement on a pro forma study of historical costs. As AWEC/505 shows, PacifiCorp's requested revenue requirement in its ongoing rate case in UE 433 starts with its 2023 unadjusted results and then adjusts revenue requirement from there. The same was true of Cascade Natural Gas's last rate case in 2020 (UG 390), which started with its 2019 actual results.[219] Avista's 2023 general rate case (UG 461) was based on the actual results of the 12-month period ending September 30, 2022.[220] Northwest Natural's current rate case (UG 490)

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[214] ORS 183.480
[215] PGE/2100, Ferchland-Liddle/25:4-14.
[216] PGE Errata Filing (Oct. 7, 2024).
[217] PGE Position Statement at 32.
[218] *See* Docket Nos. UE 197, Order No. 09-020 (Jan. 22, 2009); UE 215, Order No. 10-478 (Dec. 17, 2010); UE 262, Order No. 13-459 (Dec. 9, 2013); and UE 283, Order No. 14-422 (Dec. 4, 2014).
[219] AWEC/506.
[220] AWEC/507 at 1:20-23.

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bases its revenue requirement on actual results for 2023.[221] Thus, while the Commission may not have explicitly stated that utilities must base their filings on actual costs, this is the approach other utilities take as it provides an actual evidentiary basis for the revenue requirement and complies with a requirement the Commission does have, which is that the basis for rate changes be "known and measurable."[222] PGE's sole use of a budget to establish its rate request does not meet this requirement and is contrary to the practices of the other utilities this Commission regulates.

PGE argues that its 2024 budget is a reasonable starting point because it's to-date expenditures in 2024 "[are] nearly in line to what was budgeted by category."[223] But this is precisely the problem and says nothing about the reasonableness of the expenditures themselves. PGE is engaging in circular logic whereby its budget is reasonable because its expenditures are in line with its budget. This effectively allows PGE to establish what a reasonable expense level is and deprives parties of an ability to objectively verify the reasonableness of actual expenses. That is not how ratemaking is supposed to work, as it effectively makes the regulated the regulator. Again, no other utility in Oregon subscribes to this approach.[224]

PGE also argues that "use of its 2024 budgetary expenses, which is based on the revenue requirement submitted and approved under the final Commission order of UE 416 is the most current and relevant starting point for this proceeding."[225] PGE's understanding of the

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221 AWEC/508.

222 *See* 2001 Ore. PUC LEXIS 415, *22 (Or. P.U.C. August 31, 2001) citing In re U S WEST Communications, Order No. 00-191; In re PacifiCorp, Order No. 00-091; In re Pacific Northwest Bell, Order No. 87-406 ("Consistent with established Oregon ratemaking principles, PGE's test year should be based on actual or budgeted expenditures and adjusted to remove abnormalities and to include known and measurable changes that are expected to persist.").

223 PGE/2100, Ferchland-Liddle/26:21-22.

224 AWEC/505-AWEC/508.

225 PGE Position Statement at 32

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Commission's determination in UE 416 as applied to the current proceeding is misplaced at best. The resolution of UE 416 through settlement did not result in Commission approval of PGE's 2024 budget as just and reasonable; the Commission does not approve budgets. Additionally, as PGE is aware, the UE 416 rates were an outcome of multiple partial stipulations, including several black-box adjustments.

PGE's position in this case is strikingly similar to Avista's general rate case before the Washington Utilities and Transportation Commission ("WUTC") in 2016.[226] As PGE filed this case eight weeks after the Commission adopted new rates for the Company, Avista filed its 2016 general rate case six weeks after the WUTC issued a final order in Avista's previous rate case. As a starting point, the WUTC explained that it must:

> [F]irst determine the question whether [Avista's] existing rates "are unjust, unreasonable, unjustly discriminatory or unduly preferential, or in any wise in violation of the provisions of the law, or that such rates or charges are insufficient to yield a reasonable compensation for the service rendered." If, and only if, the [WUTC] determines the answer to this threshold question is "yes," does the [WUTC] have the authority, and the obligation, to determine revised rates that meet the fair, just, reasonable, and sufficient standard.[227]

Similarly in Oregon, the Commission is clear on this point stating that, "existing rates enjoy a presumption of reasonableness. This means that they must be viewed as the proper rates until the Commissioner determines otherwise."[228] Therefore, as is required of PGE pursuant to ORS 757.210(1)(a), Avista retained the burden of proof to show that its required increase was just and reasonable.[229]

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226 WUTC Docket Nos. UE-160228/UG-160229, Order 06 at ¶ 61 (Dec. 15, 2016) (quoting RCW 80.28.020).
227 *Id.* at ¶ 60
228 Docket No. UT 43, Order No. 87-406 (Mar. 31, 1987).
229 WUTC Docket Nos. UE-160228/UG-160229, Order 06 at ¶ 61 (Dec. 15, 2016) citing RCW 80.04.130 (4)

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Following the development of a full evidentiary record, the WUTC found that Avista "failed to carry its burden to show that its existing rates '[were] unjust, unreasonable, [or] insufficient to yield a reasonable compensation for the service rendered.'"[230] This was because Avista's requested rate increase was in large part justified by an "attrition study" showing that an "attrition adjustment" was warranted. An attrition adjustment increases a utility's revenue requirement based on a study provided by the utility that allegedly demonstrates that the level of investment the utility intends to make in the rate year will result in earnings "attrition", thus making it impossible for the utility to earn its authorized return.[231] The attrition adjustment modifies the historical test period by introducing investments and expenses that are projected to occur after rates are set.[232]

In rejecting Avista's rate request, the WUTC found that Avista failed to follow the WUTC's direction in Avista's previous rate case to use the "appropriate methodology" in which the utility should have developed a modified historical test year with pro forma plant additions and then performed the attrition study on these results.[233] Rather, Avista only used an attrition adjustment as evidence for its requested rate increase. In other words, the WUTC concluded that "insofar as its revenue requirements case is concerned, Avista's case begins and ends with its attrition study…Avista would have the Commission rely on its attrition analyses with after-attrition adjustments rather than analyses grounded in a careful pro forma study based on a

230 *Id.* at 61
231 AWEC/300 Mullins/8:14-17
232 *Id.,* Mullins/8:17-18
233 WUTC Docket Nos. UE-160228/UG-160229, Order 06 at ¶ 62 (Dec. 15, 2016) citing Order 05 at ¶ 111.

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modified historical test year approach.'"[234]

Similarly here, PGE's revenue requirement increase begins and ends with its 2024 budget and is not supported by objective and verifiable evidence, such as a pro forma study of actual costs. As the filings of other utilities demonstrate, the Commission need not adopt an historical test year to require this evidence. Thus, similar to the WUTC's conclusion in Avista's 2016 rate case, PGE has failed to present the necessary evidence that its proposed increase will result in rates that are fair, just and reasonable. Therefore, based on the record in this proceeding and in accordance with ORS 757.210(1)(a), PGE's rate filing should be rejected.

2. Issue 60: The Commission should order PGE to consider both the rate base and the amortization benefit of the Anderson Readiness Center investment tax credits ("ITCs") in revenue requirement.

Please see AWEC's response to issue 29.

3. Issue 61: The Commission should address PGE's request to modify the Renewable Automatic Adjustment Clause ("RAAC") and find that Oregon law does not allow PGE to include standalone storage in its RAAC.

As it has done multiple times since 2018, PGE has made, and then withdrawn, a request that the Commission find that ORS 469A.120(2)(a) allows PGE to include stand-alone energy storage in its Renewable Resource Automatic Adjustment Clause ("RAC"), Schedule 122.[235] Throughout this period, PGE's argument has essentially stayed the same, which is that stand-alone storage resources help with PGE's renewable portfolio standard ("RPS") compliance because they are "[e]ssential for integrating and stabilizing intermittent renewable resource generation … [and]

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234 Id. at ¶ 62
235 PGE/500, Felton/33:1-36:2; PGE/1700, Powell-Clark/29:1-13.

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enhance grid reliability and stability."[236] The Company also states that stand-alone storage "plays a crucial role by providing capacity-related functions that intermittent renewables lack and reliability functions that are beyond the capabilities of renewables alone, including support for frequency response and contingency reserve …."[237]

For these reasons, PGE concludes that it can include stand-alone storage investments in the RAC – thereby avoiding any regulatory lag on these investments – because ORS 469A.120(2)(a) allows for timely recover of "costs prudently incurred … to construct or otherwise acquire facilities that generate electricity from renewable energy sources, costs related to associated electricity transmission and costs related to associated energy storage." In other words, in PGE's view, stand-alone storage is "associated" with "facilities that generate electricity from renewable energy sources" due to the grid support and reliability functions they provide that are in part caused by these intermittent renewable energy sources.

PGE's legal arguments are as flawed today as they were in 2018. Most importantly, PGE's position renders the word "associated" before "energy storage" meaningless, which is a cardinal sin of statutory interpretation.[238] The natural reading of ORS 469A.120(2)(a) is that only energy storage that is "associated" with renewable energy sources is eligible for recovery under the RAC. PGE's reading, however, would render all energy storage "associated" with renewable energy because, as PGE itself admits, all energy storage provides the grid stability benefits it identifies.[239] Had the Legislature intended all energy storage to qualify for recovery under the RAC, it would

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236 *Id.,* Felton/34:16-17.
237 *Id.* at 35:7-10.
238 ORS 174.010; *Blachana, LLC v. Bureau of Labor & Indus.*, 354 Ore. 676, 692 (2014).
239 PGE/500, Felton, 34:14-35:2.

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not have needed to include the word "associated."

Furthermore, as Mr. Mullins demonstrates, the grid stability benefits PGE assigns to stand-alone storage apply equally to other resources, including natural gas and hydro, and the Company's storage resources do not solely balance the variability of RPS resources.[240] Rather, these resources, in combination with all of PGE's resources, balance PGE's total load/resource balance.[241] The Commission itself recognized this when it rejected a request from PGE and PacifiCorp to isolate the power costs associated with their RPS resources and carve them out from the utilities' power cost adjustment mechanisms.[242] The Commission was "not persuaded that there is a material difference between variable power costs associated with RPS-compliant resources and variable power costs associated with other resources" and that "forecast errors exist for all generation resources."[243] PGE's assertion that its stand-alone storage resources are eligible for the RAC because they are "[e]ssential for integrating and stabilizing intermittent renewable resource generation" is at best a half-truth and ignores the integrated operations of its entire system. The Commission should once and for all dispel PGE of its spurious legal assertions and find that stand-alone storage is not eligible for cost recovery under the RAC.

IV. CONCLUSION

For the foregoing reasons, AWEC recommends the Commission reject PGE's filing on the basis that it has failed to carry its burden to demonstrate not only that its rate request is just and reasonable, but also that its current rates are unjust and unreasonable. In the alternative,

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240 AWEC/100, Mullins/74:7-75:12.
241 *Id.* at 75:9-12.
242 Docket No. UM 1662, Order No. 15-408 (Dec. 18, 2015).
243 *Id.* at 7.

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AWEC has presented compelling evidence in opposition of PGE's proposal and therefore requests that the Commission adopt the adjustments presented herein. The adoption of AWEC's adjustments would result in rates that are just, reasonable, and in the public interest.

Dated this 29th day of October, 2024.

Respectfully submitted,

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