BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON

UE 435

In the Matter of

PORTLAND GENERAL ELECTRIC COMPANY,

Request for a 2025 General Rate Revision

Docket No. UE 435

Portland General Electric Company's Closing Brief in Support of a 2025 General Rate Revision

November 8, 2024

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I. Introduction

To reiterate, in this docket, Portland General Electric Company (PGE or Company) requests approval to recover for the 2025 calendar year an increase in rates of $182.9 million; or $249.9 million when including the $68 million base rate impacts due to a delay in a Commission decision for the Clearwater Wind Facility from 2024 to 2025 in Docket UE 427.[1] PGE also requests approval to recover the revenue requirement for the Seaside battery energy storage project,[2] which will begin serving customers mid-year. PGE's request reflects a cost of capital of 7.071% inclusive of a 9.5% return on equity, which PGE reduced in its Opening Brief from the previously proposed 9.65%.[3]

At the core of this filing are significant new investments in transmission, distribution, and clean energy capacity that were not included in the previous rate case. These investments, accounting for approximately 75% of the current request, are essential for enhancing system reliability, supporting clean energy goals, and meeting growing customer needs.

A key component of these investments is the implementation of two major utility-scale battery energy storage systems, set to come online in late 2024 and mid-2025. These systems are crucial for balancing renewable energy and meeting peak demand, supporting PGE's commitment to the clean energy transition while

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[1] While the approximately 1% decrease in rates for Clearwater was factored into PGE's prior testimony in UE 435 for 2024 rates based on an assumption that Clearwater would be approved to go into rates effective in June 2024 in Docket UE 427, a decision in Docket UE 427 is not expected until February 2025. *See In the Matter of Portland General Electric Company, Renewable Resource Automatic Adjustment Clause,* Docket UE 427, Order No. 24-308 (Sep 13, 2024). *See also* PGE/2100, Ferchland-Liddle/2 "However, this increase is more than offset by approximately $96 million of Clearwater Wind power cost benefit…."
[2] PGE Exhibit 2401, Rev Req Seaside_w ITC, currently shows an estimated increase of $40 million for Seaside, however, the actual amount will vary depending on the Commission's selected treatment of the ITC.
[3] PGE Opening Br. 1.

maintaining reliable power delivery. Additionally, ongoing investments in transmission and distribution infrastructure are necessary to improve system resilience, particularly in light of increasing extreme weather events that have challenged the grid in recent years. To ensure the continued delivery of safe, reliable, and clean energy, it is essential that PGE recover the costs of these prudent investments.

PGE remains concerned that the full range of complex factors influencing recent electric rate changes has not been adequately considered in discussions by the parties. Staff states in the last 25 months from December 2021 to January 2024, PGE's rates increased by 43.8%.[4] Staff's framing is without any regard for the factors that have driven changing prices. In PGE Surrebuttal testimony, PGE showed that the primary reason for these rapid changes are power costs – which have nearly *tripled* in the past five years and which PGE can do little to control.[5] Further, power costs are pass-through expenses, with no shareholder return, that are necessary to maintain service to customers. These increases in power costs due to changing power markets certainly impacts affordability for PGE's customers in a way that no one wants, including PGE. Over the same period, operations and maintenance (O&M) expense grew by an amount 7% *below* inflation.[6] Despite the staggering values presented by PGE, no party has commented or responded to those data points.

Instead, Staff and AWEC continue to emphasize the January 1, 2024 price change. Staff continues to do so without recognition that 10% of the change was

[4] Staff's Opening Br. 1.
[5] PGE/2100, Ferchland-Liddle/17.
[6] PGE/2100, Ferchland-Liddle/18 and PGE Exhibit 2102.

driven by power costs, another 1.4% was driven by supplemental schedules – both of which would have been updated with or without a 2024 general rate case.

Staff then confusingly claims that PGE's use of its 2024 Budget for ***O&M expense*** makes it difficult for Staff to verify if any additional revenues are needed in this case that is ***75% capital***. AWEC attempts to argue that the use of a 2024 Budget as a basis for building a test year is somehow unlawful and that PGE's case should be rejected as a result. However, it is not unlawful as AWEC claims; PGE will address this further at Issue 55.

Both Staff and AWEC's claims are inconsistent and contradictory, especially given that both parties spent the prior year reviewing and verifying the amounts that underlie the 2024 Budget used. By implying that PGE's 2024 Budget, which was built from a mutually agreed-upon revenue requirement, is now somehow unreliable, the parties are effectively undermining their own recent review and approval process.

CUB did not address PGE's use of a 2024 Budget, as CUB did not challenge the reasonableness of PGE's expenses or the prudence of any of PGE's capital projects in this case. Instead, CUB argues that PGE should not be allowed a January 1, 2025 rate effective date due to the impact of the winter season. PGE has made an alternative proposal to move the effective date to April 1, 2025 in a manner that will still allow for PGE to collect its prudently incurred costs for the 2025 Test Year, but CUB argues PGE should be disallowed recovery of any amounts prior to a rate effective date. This suggests that seasonality is not their only motivation; they are equally interested in seeing that PGE forfeits the collection of up to $95 million of prudently incurred expenses, and they do so without offering any challenge to the reasonableness of those expenses. PGE will discuss this in more detail at Issue 56.

PGE urges the Commission to review PGE's request for what it is: a rate case driven by new capital investments that are necessary for serving customers and driving the energy transformation. PGE views this rate review as a critical step in balancing multiple priorities: providing safe, reliable, and increasingly clean power; maintaining financial stability; addressing affordability concerns; and meeting regulatory requirements. The company emphasizes that these investments are essential for navigating the challenges posed by climate change, extreme weather events, and the ongoing transformation of the energy sector, all while striving to meet the evolving needs of its customers and communities.

II. Arguments

A. Cost of Capital

Issue 1 - Return on Equity (ROE)

a. Flaws in Staff's ROE analysis artificially lower ROE estimates, causing their recommended range to be misaligned with current utility ROE averages. Staff's proposed range should be rejected, and PGE's current ROE of 9.5% should be maintained.

Staff claims that PGE's "selection of 9.65 is arbitrary"[7] because it is outside of the calculated range provided by PGE's expert. While PGE's expert analysis supported a higher ROE range, the Company adjusted its request downward to 9.65%, then to 9.5% in its Opening Brief in response to stakeholder concerns, showing a willingness to compromise while still maintaining a proposal that is defensible and relatively in alignment with actual recent ROEs awarded in the United States. Staff and parties instead move away from any notion of a compromised position that considers actual market conditions.

The credibility of Staff's analysis is questionable when it yields a lower ROE range compared to the range offered by Staff only one year prior – especially when economic conditions have altered in a manner clearly indicating a higher, not lower, ROE. This discrepancy is particularly glaring given that awarded ROEs have increased by an average of 29 basis points over the past three years across the United States,[8] interest rates and inflation remain elevated, and even Staff is supporting a cost of long-term debt that is higher than in Docket UE 416 (UE 416).[9]

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[7] Staff's Opening Br. 3.
[8] From PGE Exhibit 2900.1 (full year averages, except 2024, which is through August 30, 2024): 2020 - 9.55%; 2021 - 9.53%; 2022 - 9.75%; 2023 - 9.80%; 2024 - 9.82% (+29 bps from YE 2021)
[9] Looking back to this proceeding, Staff's ROE recommendation is relatively unchanged from last time (9.4%) despite Model X results increasing 70 bps (8.35% vs. 9.05%) and Model Y increasing by 50 (8.81% vs. 9.31%) (*In the Matter of Portland Gen. Elec. Co. Request for a Gen. Rate Revision; and 2024 Annual Power Cost Update*, UE 416, Staff/2903 Muldoon/1-2 (Aug. 22, 2023))

Staff's recommended ROE range of 9.22% to 9.46%[10] is significantly below the current market standard for vertically integrated electric utilities, which averaged 9.82% as of September 2024. This substantial gap of 36-80 basis points demonstrates that Staff's recommendation is not aligned with prevailing market conditions and investor expectations.

Staff's analysis contains several methodological flaws that lead to a downward bias in their ROE estimates. First, the use of the geometric mean instead of arithmetic mean for calculating market equity risk premium goes against academic consensus and artificially lowers CAPM estimates. Staff's reliance on the geometric mean in their CAPM analysis lacks substantive empirical support and contradicts prevailing financial theory. The overwhelming consensus among academic experts in financial economics consistently endorses the arithmetic mean for forward-looking cost of equity estimations. This is not merely a matter of preference, but a reflection of rigorous research and analysis by scholars dedicated to this field. Instead, Staff supports its use of a geometric mean by claiming that "the Commission itself has adopted the use of a geometric mean for CAPM"[11] and then they cite to a telecom case from 1987. Reliance on dated precedent from the Pacific Bell Telephone Company raises concerns about its applicability to current electric utility ratemaking. The field of financial economics has evolved significantly over the past several decades, and regulatory approaches should reflect current best practices. The absence of more recent, directly applicable precedents supporting the use of the geometric mean in electric utility ROE calculations is as noteworthy as Staff's inability to find any citation of a scholarly expert who support it. Correcting for this would increase Staff's CAPM estimates by 161 bps. When used as a check

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[10] Staff/2800, Muldoon/9.
[11] Staff's Opening Br. 5.

on the reasonableness of the DCF results (as staff uses the CAPM for), this corrected estimate further shows that Staff's recommended ROE range is unreasonably low.[12]

Second, DCF models that delay dividend payments, inconsistent with actual utility practices, artificially lower ROE estimates. Staff repeats its incoherent argument that using earnings growth rates rather than the dividend growth rate is somehow double counting. It is not. All earnings belong to shareholders and there are other ways to return cash to investors other than through dividends. Modern financial theory recognizes that both dividends and capital appreciation contribute to total shareholder return. Considering only dividends provides an incomplete picture of investor expectations and will result in an undervaluation from the analysis.

When reasonable adjustments are made to correct all of these flaws, Staff's ROE estimates would increase by approximately 40-210 basis points. This adjustment would bring their recommendations much closer to PGE's analysis and the current market standard.

b. AWEC's ROE recommendation is based on flawed analysis using outdated or inconsistent data, and it ignores recent data showing increasing ROEs for integrated electric utilities across the United States.

AWEC claims that PGE has offered no evidence that capital market conditions have changed to justify an increasing ROE.[13] Yet, Staff provided evidence, dated July 2024, that the average authorized ROE for electric utilities so far this year is 9.68%.[14] The same source also reported that the average authorized ROE for vertically integrated electric utilities was 9.74% in the first half of 2024. PGE's

[12] PGE/1800, Figueroa-Liddle/35.
[13] AWEC Opening Br. 9.
[14] PGE/2900, Figueroa-Liddle/6 or Staff/2800, Muldoon/10, 24.

Surrebuttal Testimony also demonstrates that the average ROE for vertically integrated electric utilities further increased to 9.82% as of September 16, 2024.[15] All three data points directly contradict AWEC's claim.

Furthermore, it is contradictory to recognize and allow an increasing cost of long-term debt while simultaneously *decreasing* ROE. PGE faces higher business risks than peers due to factors like wildfires and its power cost adjustment mechanism, which also justify a higher, not lower, ROE.

AWEC makes a number of arguments regarding PGE's expert analysis of ROE, all of which are incorrect. First, AWEC suggests that the Commission should reject PGE's adjustment to its DCF and CAPM ROE results based on the Company's requested capital structure.[16] AWEC's perspective is flawed, as PGE has already provided evidence that demonstrates why higher degrees of financial leverage, all else equal, increase risk for equity holders causing them to require a *higher* rate of return on their equity investment.[17] Additionally, PGE relies on standard financial techniques, such as the Hamada adjustment, to account for differences in financial leverage between proxy companies and PGE's request capital structure. Even Staff recognized the impact of financial leverage and relies on the Hamada adjustment.[18]

Second, AWEC asserts that PGE uses systemically biased betas. This argument is undercut by the fact that Staff relies on the same Value Line betas as PGE.[19] Also, Blume Adjustment betas are grounded on well-established academic evidence[20] and are commonly used, including in several other regulatory

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[15] PGE/2900, Figueroa-Liddle/6.
[16] AWEC Opening Br. 9.
[17] PGE/600, Figueroa-Liddle/21-24.
[18] Staff/400, Muldoon/22.
[19] *Id*. 31-32.
[20] PGE/1800, Figueroa-Liddle/40 and PGE/2900, Figueroa-Liddle/15-16.

jurisdictions.[21] AWEC's proposed industry betas are non-standard[22] and AWEC provides no evidence that industry betas have been accepted and used in setting the allowed ROE for regulated utilities.[23] AWEC goes on to reiterate their position that Value Line betas are improperly influenced by anomalous stock market behavior during the pandemic.[24] AWEC's comparison of Blume-adjusted Value Line betas with unadjusted betas from Bloomberg, Yahoo, and Zacks lacks consistency and may be misleading. These beta estimates are derived using different methodologies and sampling periods (weekly versus monthly), making direct comparisons problematic.[25] Furthermore, AWEC's approach of selectively excluding certain market data points they deem "abnormal" raises concerns about the validity of their beta estimates. These data points represent actual market observations, and AWEC has not provided sufficient evidence to demonstrate that these returns are inaccurate measurements of market performance or fail to reflect the true systematic risk of utilities under those specific market conditions.[26]

Finally, AWEC argues that PGE's market risk premiums (MRP) are substantially higher than consensus estimates of 4.78%.[27] However, AWEC's consensus estimate of 4.78% is premised on outdated studies that do not reflect recent economic and financial uncertainty. AWEC also selectively ignores updated surveys that shows their MRP increased to 5.23%.[28] Most of AWEC's MRP estimates are derived from survey data, which are highly problematic and not

[21] PGE/1800, Figueroa-Liddle/41-42
[22] *Id*. 31-32
[23] PGE/2900, Figueroa-Liddle/19.
[24] AWEC Opening Br. 11-12.
[25] PGE 1800, Figueroa-Liddle/37-38.
[26] *Id*. 38.
[27] AWEC Opening Br. 12.
[28] PGE/1800, Figueroa-Liddle/43-44.

reliable. In fact, authors of the surveys cited by AWEC explicitly caution against using the survey results to estimate the cost of equity.[29]

Notably, AWEC's arguments center around reasons PGE should not receive a higher ROE and do little to support why a lower ROE would be reasonable.

c. *NewSun Energy's brief solely focused on PGE's return on equity is grossly biased, inappropriate and a conflict of interest.*

The Commission should disregard NewSun Energy's decision to provide an Opening Brief regarding PGE's ROE since they submitted no testimony throughout the case, are not representing any customer group, and are acting solely in their own interest as a competitor of PGE. Their motivations are questionable since they are attempting to influence the determination of PGE's ROE, despite NewSun's own unwillingness to disclose their own ROE for projects they seek to be paid for by PGE customers. For a competitor to attempt to influence the outcome of a regulated utility's ROE is extremely inappropriate. The Commission should respond to these actions and let NewSun know that they have outstepped appropriate boundaries.

d. *No party effectively argues for a lower ROE than PGE's currently authorized value.*

While Staff, Verde and AWEC offer weak support for abnormally low ROEs inconsistent with the higher authorized ROEs seen throughout the country, CUB's position on ROE is based solely on testimony they filed in UE 416 and is at best stale information. Walmart supports maintaining an ROE of 9.5%.[30] PGE has shown that the positions provided by the other parties fails to apply appropriate economic theory or accurate analysis resulting in artificially low ROE proposals and should be disregarded.

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[29] *Id.* 44-45.
[30] Walmart Opening Br. 4.

Artificially lowering PGE's ROE below market levels could harm PGE's ability to attract capital and maintain financial health, potentially leading to higher costs for customers in the long term. This is especially critical given Oregon's ambitious clean energy targets, which will require PGE to make substantial investments in renewable energy and related infrastructure.

The parties recommended ROE's and ROE range are inappropriately low and fail to meet the standards set by ORS 756.040(1) for providing a return commensurate with investments of similar risk and sufficient to maintain the utility's financial integrity and ability to attract capital.

Issue 2 - Capital structure

a. *AWEC's recommendation for a 47% equity structure is flawed. It ignores PGE's long-term capital structure history and the Commission's repeated approval of the 50/50 ratio.*

PGE has consistently maintained,[31] and the Commission has repeatedly approved a 50/50 capital structure since 2007,[32] recognizing it as an optimal balance between customer interests and financial stability. This structure has been reaffirmed in PGE's last five general rate cases through stipulation.[33] The 50/50 ratio strikes a crucial balance between managing costs for customers and ensuring PGE's financial strength, which is essential for maintaining reliable access to capital markets and managing long-term costs effectively.

Staff supports the 50/50 capital structure, citing the Commission's own statement from a recent rate case[34] that this ratio is considered optimal for

[31] PGE/1800, Figueroa-Liddle/61 at Table 3.
[32] *Id*. 59 citing UE 180 Order No. 07-015.
[33] *Id*. 60.
[34] *In the Matter of PacifiCorp, dba Pac. Power, Request for a Gen. Rate Revision*, Docket UE 374, Order No. 20-473 at 25.

ratemaking as it balances the interests of both ratepayers and investors. This balanced approach is particularly important given the financial risks PGE faces, including those associated with purchased power agreements and the current banking environment. PGE's relatively small size in the industry makes maintaining a solid capital structure and financial flexibility even more critical for managing customer costs and providing shareholder value.

Furthermore, AWEC's argument fails to consider the broader context of PGE's capital structure history and future plans. While AWEC points to recent declines in equity percentage, they overlook PGE's long-term average of 49.9% equity over the past 10 years.[35] PGE is actively working towards maintaining this balanced structure through ongoing issuance of common stock and equity forwards. The Commission is not obligated to adopt PGE's actual capital structure at any given point in time, but rather can select an alternative structure that considers various factors affecting the cost of capital. In this case, the 50/50 structure aligns with industry peers, provides a benchmark for reasonable financial risk, and supports PGE's ability to manage future leverage and risk effectively.

Issue 3 - Cost of Long-Term Debt

The Commission should authorize Staff's recommended 4.641% cost of long-term debt. As Staff pointed out in its Opening Brief, AWEC's recommended long-term debt of 4.63% is not supported by Staff's most recent analysis.[36]

[35] PGE/1800, Figueroa-Liddle/61 at Table 3.
[36] Staff Opening Br. 8-9.

B. Rate Base

Issue 4 - Methods for Calculating Rate Base and Depreciation Expense

a. PGE's methodology best satisfies the legal and policy standards for calculating rate base.

The calculation of utility rate base must meet established legal and policy standards. Those standards can be summarized as follows: (1) ORS 757.355 requires the Commission to ensure that plant included in rates is used and useful "at the time rates are set";[37] (2) the rate base calculation should not result in "a mismatch between utilization and recovery of assets";[38] and (3) the calculation should reflect "a balance between regulatory lag experienced by the company before plant is included in rate base, and lag experienced by ratepayers associated with the removal of depreciated plant from rates."[39]

PGE's end of period (EOP) calculation methodology, which the Company has used in Commission proceedings since 2015,[40] satisfies each of these standards. To review, PGE's calculation starts with plant-in-service as of December 31, 2023, and adds capital additions through December 31, 2024. To maintain compliance with

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[37] *In the Matter of Portland Gen. Elec. Co., Request for a Gen. Rate Revision*, Docket No. UE 394, Order No. 22-129 at 46 (Apr. 25, 2022).

[38] *See In the Matter of Portland Gen. Elec. Co., Detailed Depreciation Study of Elec. Util. Props.*, Docket No. UM 2152, Order No. 21-463 at 5 (Dec. 15, 2021). In the proceeding that approved PGE's 2021 depreciation study, the Commission described the arguments of PGE, Staff, and CUB (the "Stipulating Parties") as follows: "The stipulating parties assert that it is important to match utilization of assets with the recovery of assets, and that this needs to be done fairly from the beginning of that asset's life to the end. They oppose AWEC's proposed adjustment as representing a material change to the recovery pattern and resulting in a mismatch between utilization and recovery of assets. The stipulating parties argue this approach is not systematic or rational and is inconsistent with standard depreciation practices." The Commission approved the stipulation over AWEC's objections. *Id.* at 8.

[39] Docket No. UE 394, Order No. 22-129 at 35.

[40] PGE/1300, Batzler-Meeks/20. PGE has consistently applied the EOP approach since docket UE 283 (PGE's 2015 rate case), where Commission Staff indicated they found PGE's approach "reasonable." *In the Matter of Portland Gen. Elec. Co., Request for a Gen. Rate Revision*, Docket No. UE 283, Staff/600, Garcia/1-2 (June 11, 2014).

ORS 757.355, the EOP calculation ensures that all plant included within PGE's rate base is in-service on the date revised rates go into effect.[41] Depreciation expense is annualized for the 2024 plant additions to reflect a full year of depreciation expense for these assets, and to recognize that the plant will be in service for the entirety of the 2025 Test Year. PGE adds the annualized depreciation to the accumulated reserve to reduce the 2024 plant additions to match investments' costs with corresponding benefits.[42]

PGE methodology meets each of the three standards. First, the EOP methodology does not include plant in rate base that is not "used and useful" as of December 31, 2024. There does not appear to be any dispute about the EOP calculation's compliance with the used and useful standard in ORS 757.355.[43] Second, the EOP methodology matches the utilization of PGE assets with the cost recovery for those assets. PGE matches assets with cost recovery by accounting for plant additions and depreciation at the levels where they are forecast to be on December 31, 2024. Plant additions are added based on their 2024 in-service dates. To provide a full year of depreciation benefits for new 2024 assets, PGE calculates depreciation based on January 1, 2024.[44] AWEC argues that PGE's methodology creates a mismatch, which results in which PGE "get[ting] higher depreciation expense on new plant additions, without recognizing the lower depreciation expense and lower rate base valuation for the existing plant."[45] This is incorrect.

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[41] PGE/1302, Batzler-Meeks/8.
[42] PGE/1300, Batzler-Meeks/11.
[43] While PGE does not concede that ORS 757.355 precludes all plant entering service during the Test Year from being included in rates, the Company is not challenging Staff's interpretation of ORS 757.355 in this case.
[44] PGE/2400, Batzler-Meeks/12.
[45] AWEC Opening Brief at 15.

PGE calculates net plant balances as of December 31, 2024, and the corresponding depreciation expense for a full year of recovery. When calculating depreciation, PGE's assumption that 2024 assets entered service at the beginning of 2024 reduces the Company's December 31, 2024 rate base.[46] This calculation provides two components: (1) annual depreciation expenses to capture a full year for the revenue requirement, and (2) the amount to add to the accumulated reserve to reduce the gross plant additions in 2024.[47]

Thus, PGE is not using "inconsistent periods" to calculate rate base and depreciation expenses, but instead consistently applies 2024 depreciation levels and plant additions to ensure the most accurate rate base and depreciation expenses going into the test year. PGE's rate base calculation does not, as AWEC argues, mismatch the assets being measured, or the dates to which they are calculated; the calculation yields a balanced forecast of plant and depreciation as of December 31, 2024.

Third, PGE's rate base calculation appropriately balances the potential regulatory lag that is inherent in establishing utility rate base at a particular point in time for ratemaking purposes. The Commission recognized this feature of ratemaking in docket UE 394:

> Under our standard ratemaking process, PGE will have the opportunity to recover a return of and return on the plant balances included in rate base until its next rate case, even as the value of those assets depreciates and plant is retired. The benefit of continuing to collect rates on the rate base established in the prior rate case is countered by the ongoing capital investments a utility makes that will not be placed into rates during that period. Thus, there is a balance between regulatory lag experienced by the company before plant is included in rate base, and lag experienced by ratepayers associated with the removal of depreciated plant from rates.[48]

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[46] PGE/1300, Batzler-Meeks/13 (The January 1, 2024 "date is only a proxy used in the calculation of annualized depreciation for new plant additions … which reduces the December 31, 2024 gross plant to calculate the net capital in rate base.")
[47] PGE/2400, Batzler-Meeks/14.
[48] UE 394, Order No. 22-129 at 35.

PGE's EOP methodology takes this balance into account when calculating rate base. PGE's calculation ensures both the full year of 2024 plant additions and a full year of 2024 depreciation are incorporated (along with existing plant and associated depreciation).

AWEC argues that PGE's calculation results in an overpayment due to the treatment of depreciation expense. The Commission rejected an analogous AWEC objection when it approved PGE's depreciation rates in docket UM 2152. There, AWEC argued that that a "theoretical reserve imbalance" indicated that "PGE's depreciation rates have historically been too conservative,"[49] resulting in a historical over-collection of depreciation expense.[50] AWEC urged the Commission to address its concern by departing from the remaining life methodology for calculating depreciation. The Commission rejected AWEC's request to change its long-established methodology, and found that AWEC's concern regarding overpaying depreciation expense "is, at its core, a concern about the fact that the calculation of depreciation rates is somewhat inexact and influenced heavily by the assets acquired by a utility (the nature of which changes over time, and is likely to change in the future)."[51] Here, Staff's and AWEC's objections to PGE's EOP calculation ignore that establishing 2024 plant-in-service and associated depreciation will similarly be "somewhat inexact" as both plant-in-service and depreciation are "likely to change in the future." PGE's EOP calculation fairly balances these ever-changing factors in a manner that is consistent and legally sound.

[49] UM 2152, Order No. 21-463 at 3.
[50] *Id.* at 8.
[51] *Id.*

b. The proposals offered by Staff and AWEC fail to meet the Commission's standards for rate base calculations and generate inappropriately one-sided results.

Staff's proposal mismatches plant and depreciation calculations and should not be adopted for the first time in this proceeding.

PGE thoroughly addressed the flaws in Staff's proposal in its Opening Brief.[52] In summary, Staff's proposal does not meet the standard for matching "utilization and recovery of assets,"[53] results in regulatory lag in 2025 that is inappropriately one-sided, and is inconsistent with federal tax and Generally Accepted Accounting Principles (GAAP) standards. PGE replies to two points made in Staff's Opening Brief.

First, Staff claims that "PGE does not credit customers for the depreciation expense paid during the Test Year," and that Staff's proposal "does not use the fiction that plant-in-service does not decrease in net value during the 2025 Test Year."[54] Staff's arguments do not acknowledge that PGE's methodology locks in both plant-in-service and depreciation at their December 31, 2024 level. In the rate base calculation, it is true that PGE "does not credit customers" for test year depreciation, but it is also true that PGE does not receive credit for plant placed in service during the test year that is used and useful to customers in 2025.

Staff does not deny this mismatch but blames it on the law. Staff argues that ORS 757.355 does not allow inclusion of plant placed in service in 2025, but it does not prohibit recognition of the depreciation side of the equation.[55] The Commission has not interpreted the statute to require this anomalous result. Rather, the Commission has recognized the importance of maintaining balanced recognition of

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[52] PGE Opening Br. 13-16.
[53] UM 2152, Order No. 21-463 at 5.
[54] Staff Opening Br. 9-10.
[55] *Id.* at 10.

plant-in-service and depreciation. As the Commission summarized its "standard ratemaking process" in docket UE 394: "The benefit of continuing to collect rates on the rate base established in the prior rate case is countered by the ongoing capital investments a utility makes that will not be placed into rates during that period."[56]

By contrast, Staff's proposal creates a mismatch by including 2025 depreciation credit without also including in rate base the plant PGE places in service in 2025.[57] In this case, Staff's mismatch would have substantial consequences: implementation of Staff's proposal would unjustifiably reduce PGE's test year rate base by approximately $290 million (equating to an approximately sixty (60) basis point reduction in PGE's requested ROE).[58]

Second, Staff presents text from an Internal Revenue Service (IRS) Private Letter Ruling (PLR) in an attempt to counter the fact that its proposal will endanger PGE's legal authority to take advantage of accelerated depreciation tax benefits.[59] As PGE demonstrated in its testimony, the mismatch included in Staff's proposal would endanger PGE's ability to follow the IRS normalization rules.[60] Following the normalization rules is a prerequisite to a utility taking advantage of accelerated depreciation tax benefits.[61] In its arguments on the normalization rules, Staff does not contest the mismatch its proposal creates, but argues that "PGE's methodology creates an inconsistency as well."[62] As discussed above, this is

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[56] UE 394, Order No. 22-129 at 35.
[57] *See* PGE Opening Br. 14-15.
[58] PGE/1300, Batzler-Meeks/12.
[59] Staff Opening Br. 11-12. Staff cites U.S. Internal Revenue Service, Private Letter Ruling 202426004, 2024 PLR LEXIS 227* (March 8, 2024). PGE notes that the PLR itself states, as do all Private Letter Rulings: "This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the [Internal Revenue] Code provides that it may not be used or cited as precedent." *Id.* at *31.
[60] *See* PGE/1302, Batzler-Meeks/6; PGE Opening Br. 15-16.
[61] *Id.*
[62] Staff Opening Br. 11.

incorrect: Staff extends depreciation (but not plant additions) into the 2025 test year; PGE consistently calculates both as of December 31, 2024.

Staff's interpretation of the IRS PLR is muddled. The PLR was filed by a utility seeking clarity from the IRS on whether a proposed state commission ratemaking adjustment related to depreciation would "violate the normalization rules of § 168(i)(9), and particularly the consistency rules of § 168(i)(9)(B.)"[63] The IRS found that the PLR "ruling is solely with respect to the four normalization elements relevant to depreciation-related ratemaking.[64] Staff argues that the PLR demonstrates that the normalization rules are inapplicable because "[t]he issue here is not whether PGE is using an accelerated method of depreciation for computing tax expense and depreciation expense and properly deferring the benefit to later years."[65]

Staff's argument misses the point, which is that PGE must follow IRS normalization rules, which require consistency in the calculation of tax expense, in order to qualify for accelerated depreciation tax treatment (which benefits both the Company and its customers). The question of whether a particular ratemaking treatment of depreciation would violate the normalization rules was the central issue in the PLR. In its ruling, the IRS clearly explains the applicability of the normalization rules to rate base calculations:

> Section 168(i)(9)(B)(ii) [of the Internal Revenue Code] provides that the use of a procedure or adjustment that uses an estimate or projection of any of (1) the taxpayer's tax expense, (2) *depreciation expense*, or (3) reserve for deferred taxes under § 168(i)(9)(A)(ii) does not comply with the Consistency Rule unless such estimate or projection *is also used, for ratemaking purposes, with respect to all three of these items and with respect to the rate base.* Therefore, generally,

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[63] Private Letter Ruling 202426004, 2024 PLR LEXIS at *10.

[64] *Id.* at *30. The IRS ruled that the utility did fail to comply with the normalization rules, but that its non-compliance was "inadvertent," and "it is not appropriate to conclude that the failure to follow the Consistency Rule … constituted a normalization violation and apply the sanction of denial of accelerated depreciation to [the utility]."

[65] *Id.* at 12.

> *the Normalization Rules do not permit Taxpayer to adjust its rate base by removing used and useful assets*[] *without making similar adjustments to book and tax depreciation expense,* tax expense, and the reserve for deferred taxes.[66] [emphasis add]

If Staff's proposal is adopted, PGE will be required to use "an estimate … of … depreciation expense" for 2025 "with respect to the rate base" calculation.[67] PGE would also have "adjust[ed] its rate base by removing used and useful assets," because it would not include in rate base assets that go into service in 2025.[68] The normalization rules require that removing plant in rate base must be accompanied by "similar adjustments to" depreciation expenses.[69] Staff's proposal would prevent PGE from making this adjustment, and complying with the IRS's rules, due to the inconsistent treatment of 2025 plant additions and 2025 depreciation expense. PGE reiterates its request that the Commission reject Staff's flawed proposal for calculating rate base.

c. *AWEC's proposed methodology is flawed and designed to be punitive rather than balanced.*

PGE detailed the flaws in AWEC's proposal in its Opening Brief.[70] PGE and Staff agree that AWEC's proposal does not attempt to measure rate base in the 2025 test year but is rather designed for a historical test year calculation.[71] AWEC's methodology was last used decades ago, at a time when historical test years were the norm and ratemaking standards were significantly different.[72]

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[66] Private Letter Ruling 202426004, 2024 PLR LEXIS at *23-24 (emphasis added).
[67] *See Id.*
[68] *See Id.*
[69] *Id.*
[70] PGE Opening Br. 16-18.
[71] Staff/3000, Stevens/27.
[72] As PGE noted in its Opening Br. 18: "Back when AWEC's proposed AMA methodology was in use, 'rate base included components such as construction work in progress and plant held for future use. Today, such costs are excluded from rate base levels, thus lowering the baseline of utilities' cost recovery.'" (quoting PGE/1300, Batzler-Meeks/23-24).

Even more fundamentally, AWEC's proposal would systematically undervalue rate base during the period rates are in effect.[73] While AWEC claims that its AMA methodology measures "the changing level of plant balances over a test period,"[74] its historical approach does not attempt to measure rate base going into 2025. By contrast, PGE's approach sets an asset value equal to the expected plant-in-service on the first day of the test year and provides customers the full annualized depreciation benefit associated with new assets within accumulated depreciation. AWEC's proposal essentially applies a historical test year to rate base calculation in a proceeding that is based on the 2025 forward test year. This methodological mismatch, along with the other flaws discussed in PGE's Opening Brief, should disqualify AWEC's proposal for use in calculating PGE's rate base in this proceeding. PGE again urges the Commission to reject AWEC's proposal.

Issue 5 - Cash Working Capital

a. Staff's recommended adjustment to remove depreciation and amortization expense from Cash Working Capital (CWC) fails to account for the lag between when depreciation and amortization expenses are incurred and when revenues are collected and should be rejected.

PGE has included depreciation and amortization (D&A) expense in Cash Working Capital (CWC) for over 30 years, which Staff never previously contested. However, Staff now contends that D&A expense should be removed from CWC without basis. Staff acknowledges that other jurisdictions allow non-cash items such as D&A expense in the calculation of CWC.[75] Staff notes that "[i]n these jurisdictions, depreciation is included in cash working capital to allow shareholders the means to

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See PGE/1300, Batzler-Meeks/22 (Figure 1 depicts the artificial reductions to PGE's net plant AWEC proposes.).

[74] AWEC/100, Mullins/14.

[75] Staff Opening Br. 13.

recover the lag between when capital investment is made and when it is recovered."[76] As other commissions have determined, this continues to be the appropriate way to calculate CWC in this case as well.

For example, this sub-issue was evaluated by the North Carolina Utilities Commission (NCUC) in its investigation specifically on lead-lag studies used in general rate case proceedings for major electric and natural gas utilities.[77] The NCUC agreed that depreciation and/or amortization expenses should continue to be included in the CWC requirement or else investors would, improperly, be denied an opportunity to recover such cost, allowing investors to be fully and fairly compensated for investment in utility assets from the time cash is expended until the time cash is recovered from customers.[78] The NCUC later reiterated this finding stating "As a general rule, in future determinations of cash working capital in general rate case proceedings, depreciation expense and other purported non-cash items should be included in the cash working capital requirement determinations."[79]

The same is true in this case—rate base is credited with the full year of D&A expense assuming this D&A expense has been recovered from customers on day one of the rate effective date.[80] However, the actual recovery of this D&A expense will occur over the test period, creating a timing gap between when PGE has incurred the expense (i.e., the day one reduction to rate base) and collected the revenue. Thus, there is a short-term gap between revenue collected and expenses paid which

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[76] Staff Opening Br. 13:6-8.
[77] *In the Matter of Investigation of Certain Aspects of Lead-Lag Studies Used in Gen. Rate Case Proc. For Major Elec. and Nat. Gas Utils.*, N.C. Utils. Comm'n Docket No. M-100, SUB 137, Order Ruling On Lead-Lag Study Proc. 31-32 (May 5, 2015).
[78] *Id.*
[79] Docket No. M-100, SUB 137, Order Clarifying Order on Lead-Lag Procedure, 1 (March 21, 2016).
[80] PGE/2400, Batzler-Meeks/26.

CWC is designed to recover.[81] Inclusion of D&A expense in CWC continues to be appropriate in this case.

Staff continues to incorrectly assert that D&A is included in rate base in this case and PGE is earning a return on it.[82] In actuality, PGE's rate base is reduced by the D&A expense to be collected, so PGE is not earning a return on D&A expense.[83] There is also no assumption of this lag in the calculation of PGE's ROE. Staff does not provide any evidence disputing this.[84] There is no evidence that investors are being compensated for this depreciation in the rate of return in this case.

Despite this reality, and Staff's acknowledgement of other jurisdictions inclusion of D&A in CWC, Staff tries to persuade this Commission to adopt a 1991 Federal Communications Commission (FCC) decision in a national telecommunications provider case rejecting depreciation from CWC because in that case depreciation was taken into account in the rate of return.[85] Staff then goes further and argues that where "D&A are included in the calculation of CWC, it would be appropriate to adjust PGE's authorized ROE downward...."[86] Again, the facts of *that* case do not match to the facts in *this* case. PGE is not earning a return on D&A expense because it is a reduction to rate base. It is also not accounted for in the calculation of ROE. Further, there is no evidence to support a reduction to PGE's currently requested ROE of 9.5%, which is already over 30 basis points below the recent average of ROEs awarded to vertically integrated utilities.

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[81] PGE/2400, Batzler-Meeks/26.
[82] Staff Opening Br. 13:4.
[83] PGE/2400, Batzler-Meeks/27 at 7.
[84] *Id.* /2 at 7.
[85] *In the Matter of Amend. of Part 65 of the Comm'n Rules of Prescribe Components of the Rate Base and Net Income of Dominant Carriers*, 7 FCC Rcd. 296, 297-99 (F.C.C.), 69 Rad. Reg. 2d (P & F) 1567, 7 F.C.C.R. 296, 1991 WL 638536 FCC 91-324 (October 31, 1991).
[86] Staff Opening Br. 14:3-5.

Finally, although Staff references a 1992 Commission order in their Opening Brief, this Commission has never dismissed the idea that the calculation of CWC should include lag for capital investment expense via depreciation. The 1992 Commission order that Staff cites is addressing an argument on whether the CWC amount for day-to-day expenses was justified in light of decreasing construction work in progress (CWIP)/construction program costs.[87] The arguments appear to stem from allegations that the CWC amounts should not be included in rate base because "[CWC] is not 'presently used for providing utility service to the customer'"[88] (the first portion of the CWC decision not quoted in Staff's Opening Brief). For context, depreciation begins once plant investment is in service or used and useful, which was not the issue the Commission's 1992 order was deciding. The Commission's 1992 order was deciding only if the CWC was increased because of a decrease to CWIP amounts, as shown by the Commission's conclusions stating:

> However, the correlation between cash working capital and construction work in progress is not significant. Cash working capital is used to meet operating expenses and the allowance is necessitated by the delay in collecting revenue derived from those expenses. There is no basis for concluding that construction costs are the basis for the CWC allowance in this case.[89]

Staff's interpretation of that 1992 order is incorrect. The decision on CWC in that order did not "expressly dismiss the idea that the calculation of cash working capital in Oregon should compensate investors for the lag between capital investment and recovery..." as Staff summarizes.[90]

The Commission should address this issue consistent with past treatment of D&A in CWC. Inclusion of D&A expense in CWC is a core item that has to be

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[87] *In the Matter of Revised Tariff Schedules Applicable to Elec. Serv*. Filed by Pacificorp, dba Pac. Power & Light Co., UE 76, Order No. 92-1128, 1992 WL 12797183 (Aug. 4, 1992).
[88] *Id.*
[89] *Id.*
[90] Staff Opening Br.14:7-10.

accounted for to address the gap between paying expenses and later collecting revenue to cover that expense. This recovery allows investors to be fully and fairly compensated for investment in utility assets from the time cash is expended until the time cash is recovered from customers. Without this treatment investors would be improperly denied an opportunity to recover such cost. Staff also did not refute that if D&A expense was not included in CWC as PGE proposed then it would be included in the lead-lag study.

Staff's argument also continues to ignore that PGE uses the UE 416 working cash factor of 4.222% for the 2025 test year.[91] Staff does not contest that working cash factor. PGE accounted for D&A in working capital because if the alternate method was used (accounting for D&A in the lead-lag study) it would have increased the working cash factor to 5.72%.[13] Specifically, if PGE had included the test year D&A expense within its lead-lag study and thus not used D&A expense in the calculation of working capital, the working cash factor would have increased from 4.22% to 5.72% and PGE's working capital requirements inclusive of Constable would be approximately $115.7 million vs. the $105.8 million included in this request.[14] Staff also did not refute that if D&A expense was not included as PGE proposed then it would be included in the lead-lag study.

PGE's proposed method is the least cost and better option for customers. The depreciation and amortization expense should be included in the calculation of cash working capital, and Staff's downward adjustment rejected.

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[91] PGE/200, Batzler - Ferchland/27.

Issue 6 (a) - Fuel Stock

a. The year-end method for calculating fuel stock accurately reflects the value of fuel stock that will be in service to customers at the start of the test year, aligns with how other rate base is established, and corresponds with the benefits customers will receive beginning January 1, 2025.

PGE's Opening Brief fully addressed this issue.

Issue 6 (b) - Fuel Stock

a. The economic value of maintaining natural gas reserves at North Mist is self-evident, making Staff's proposal for additional analysis unnecessary and unwarranted.

Natural gas reserves at North Mist were contracted to meet the need for approximately 200 MW of flexible capacity needed to fulfill the dual purpose of meeting load during peak customer demand events as well as providing flexible capacity to follow both load and wind fluctuations.[92] Staff ignores that North Mist was the least-cost fuel supply option as part of the winning RFP bid from 2012 for flexible capacity needs.[93] Staff also ignores that these natural gas reserves are held for reliability purposes, including no-notice stored gas to respond to potential future events[94], in its recommendation to justify the purely economic value of the minimum balance of 1.2 million dth. An analysis reviewing fuel stock reserves must recognize that there are essential non-financial reasons to maintain reliability reserves, which Staff refuses to acknowledge.

A purely economic additional analysis of North Mist natural gas reserves is unnecessary, unwarranted and an administratively inefficient use of time and effort. As a reasonable alternative, PGE proposed in testimony to conduct a

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[92] PGE/1300, Batzler - Meeks/48 citing *In the Matter of Portland Gen. Elec. Co. 2009 Integrated Resource Plan*, Docket LC 48, Integrated Resource Plan (November 5, 2009) at 7.
[93] PGE/1300, Batzler - Meeks/48.
[94] See PGE/2400, Batzler - Meeks/31-33.

workshop with parties prior to the filing of the next AUT to review gas storage modeling in MONET, including the economic and non-economic considerations of results from scenarios prepared with parties' input.

Issue 6 (c) - Fuel Stock

a. *Staff's proposal to reduce rate base by $2,121,786 by altering PGE's long-standing use of valuing gas fuel stock from the weighted average cost (WAC) to a year-end value contradicts industry standards and GAAP requirements for consistent inventory costing and should be rejected.*

PGE's Opening Brief fully addressed this issue and the arguments from testimony continued in Staff's Opening Brief that should still be rejected.

Issue 6 (d) - Fuel Stock

a. *Staff's proposal to reduce rate base for Beaver oil relies on price indexing for the wrong kind of oil, misinterprets PGE's continued oil burning capability at Beaver, and should be rejected.*

PGE's Opening Brief fully addressed this issue and the deficiencies and incorrect assertions from Staff's testimony reiterated in its Opening Brief. PGE has nothing further to add.

Issue 7 - Materials and Supplies

a. *Staff's proposal fails to address relevant data provided by PGE and instead relies on outdated averages and ignores current balances. PGE's request is based on sound methodology and should be approved.*

The Commission should reject Staff's proposed three-year historical average approach for calculating materials and supplies balance for the 2025 Test Year because the method does not accurately reflect PGE's current operational needs and current economic realities.

As of June 30, 2024, PGE's actual materials and supplies balance was approximately $6.1 million greater than the amount included in this case. PGE has

experienced substantial growth and inflation in transmission and distribution (T&D) materials, with annual inflation rates exceeding 13% for critical components like poles and transformers. The increase in materials and supplies aligns with the growth of PGE's system. These increases outpace the All-Urban CPI used in Staff's calculations.

As PGE expands and maintains infrastructure, inventory requirements naturally increase. Staff's three-year historical average (2021-2023) fails to capture the rapid changes in PGE's operating environment, particularly the significant inflationary pressures of recent years. Current actual balance exceeding the forecasted amount for this case demonstrates the accuracy of PGE's forecasting method. It also highlights the potential shortcomings of relying solely on historical data in a rapidly changing economic landscape.

The materials and supplies in inventory are critical for maintaining reliable service for customers. The 2025 Test Year forecast reflects the minimum necessary to meet operational needs and regulatory obligations. The Commission should approve PGE's 2025 Test Year materials and supplies amount as requested since it represents prudent and necessary acquisitions that allow PGE to provide safe, reliable service to customers.

C. Other Revenues

Issue 8 - Joint Pole and Steam Revenue

a. *Staff's proposal for joint pole revenue should be rejected because it relies on oversimplified averages using atypical events, while PGE's forecast provides more accurate revenue expectations using normalized data and customer information.*

PGE's arguments in its Opening Brief remain dispositive. Staff provides no evidence to contradict PGE's position that exceptional events occurred in 2022 for steam sales and in 2023 for joint pole revenue that make a simple three-year average an inappropriate forecast. Indeed, Staff even agrees that it would "not be reasonable to use one outlying year as a basis for the forecast."[95] Thus, the Commission should approve PGE's forecast of $16.9M for other revenue.

To support its arguments, Staff simply suggests that evidence in the record be ignored: "PGE provided no evidence to support its assertion that its forecast is based on actual conversations with counter parties" and that "even assuming this is true, there is no guarantee that these conversations make PGE's forecast reliable."[96]

However, to the contrary, PGE provided testimony under oath regarding what it learned from its steam customers and regarding exceptional revenue from enforcement of joint pole use rules. Specifically, PGE's evidence is the following unrefuted testimony:

> Steam sales revenue for 2022 was greater than normal due to a steam customer, who suffered a mechanical failure to their on-site boiler in 2022. Due to this failure, the customer used a greater than normal amount of steam from PGE until their onsite boiler was returned to service in the later part of 2022. Joint pole revenue for 2023 was greater than normal due to greater than expected sanctions from pole occupant non-compliance. While PGE budgets for

[95] Staff Opening Br. 21:7-8.
[96] Staff Opening Br. 20:22-24.

> a level of sanctions revenue within the 2025 joint pole revenue forecast, it is not reasonable to expect the level from 2023 to be repeated.[97]

Staff could have cross examined PGE regarding this testimony if it was concerned about the validity of this point, but did not.

Staff also seems to be arguing that because these one-off events occurred, other revenues are therefore dependent on "factors other than those that can be easily predicted."[98] This is entirely speculation, and there is no evidence in the record that this is true.[99] In fact, PGE is only aware of, and provided testimony regarding, these two outlier events (the mechanical failure in 2022 and the exceptional level of sanctions revenue in 2023), and because they are just that—outlier events—PGE is proposing to remove them *in order to* normalize its proposed forecast.

Finally, Staff appears to be arguing that because PGE's forecasts for other revenue in the last three general rate proceedings have been "under forecast," an escalator of the historic average should be utilized.[100] The fact that other revenue has been under forecast in prior rate cases (UE 319 (2017), UE 335 (2018) and UE 394 (2022)) is not evidence that PGE's proposed forecast is not the most accurate forecast using the best current factual information available. By relying on normalized expectations of third-party steam use from customer information, plus normalized typical joint pole revenue, PGE has provided the most accurate forecast.

PGE requests that the Commission approve PGE's forecast of $16.9 million for other revenue as proposed. This is based on using best available information but does also happen to be consistent with averaging the actual revenues for the four

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[97] PGE/1300, Batzler-Meeks/58.
[98] Staff Opening Br. 21:1.
[99] See PGE and Staff Testimony, generally.
[100] Staff Opening Br. 21:6-7.

years from 2020-2023 after removing the outlying year for each of steam and joint pole revenue consistent with when the atypical events occurred. As shown in the table below, PGE's forecast is actually $0.5 million higher than using a normalized simple three-year average of actuals:

Table 1[101]
2020-2023 Joint Pole and Steam Revenues

	2020 Actuals	2021 Actuals	2022 Actuals	2023 Actuals	Normalized Average	2025 Forecast
Joint Pole	(12.4)	(14.2)	(14.3)	~~(17.5)~~	(13.6)	(14.6)
Steam Sales	(1.4)	(2.6)	~~(5.1)~~	(4.4)	(2.8)	(2.3)
Total					**(16.4)**	**(16.9)**

In order to provide the Commission with a compromise solution,[102] PGE provides the following alternative approach. In the event the Commission agrees with Staff's recommendation to use a simple historic average of actuals, PGE requests normalization of the revenue by removing at a minimum the atypical year in 2022 related to steam sales. Incorporating this recommendation reduces Staff's total adjustment to other revenue from $2,427,921 to $1,214,534.[103]

[101] PGE/1300, Batzler-Meeks/56 at Table 7.
[102] As recently requested by Commissioners during the November 1, 2024 Utility Section of the Bar CLE.
[103] *See* PGE/2400 Batzler-Meeks/43

D. Compensation

Issue 9 (a) - Labor Compensation

a. *Staff's method for reducing labor should be rejected because it fails to consider labor costs holistically, ignores recent labor market trends, and doesn't account for the need for operational flexibility and specialized skills in the utility industry.*

Staff incorrectly claims that PGE's 2025 Test Year forecast for wages and salaries is "unsupported and unsupportable." Staff proposed to adjust PGE's base salary labor by $31.9 million through adjustments based on its three-year Wages and Salaries Model.

PGE disagrees with Staff's recommended adjustments to the 2025 Test Year labor forecast because PGE's proposal is reasonable and necessary to meet operational needs and provide reliable service to customers. More specifically, Staff's adjustments should be rejected because it fails to evaluate labor costs in a holistic manner, disregards recent trends in labor costs, and does not appropriately account for contract labor in the three-year Wages and Salaries Model.

1. A Holistic view of labor costs is needed.

While Staff analyzes straight-time, overtime, and contract labor separately, PGE believes a holistic view of total labor requirements is more appropriate. The $14 million shift from straight-time to contract labor reflects operational flexibility needed to address evolving workforce dynamics and project needs. This shift does not artificially inflate costs, but rather optimizes and accurately reflects the labor mix.

2. Recent labor trends do not support Staff's adjustments.

Staff's analysis of 2021-2023 data does not fully capture current and future labor market conditions. While contract labor decreased in that period, labor trends show increased competition for skilled workers in 2024 and beyond, necessitating higher

labor costs to attract and retain talent. PGE's 2025 Test Year forecast reflects this reality.

3. Staff's application of the Three-Year Wages and Salaries Model is limited.

PGE continues to oppose using the Wages and Salaries model as the sole basis for forecasting labor costs. The model's reliance on historical data and CPI fails to account for rapid changes in the labor market, especially for specialized utility roles. A more flexible approach is needed that more accurately reflects the current labor market and allows PGE to maintain appropriate staffing levels.

Moreover, Staff's proposed reduction of 213 FTEs would significantly impact PGE's ability to execute critical work plans and maintain service reliability. This adjustment is not merely a financial consideration but could have real consequences for operations and customer service. While acknowledge the impact of rate increases on customers, labor cost forecast represents a necessary investment in workforce to support system reliability, safety, and clean energy initiatives. PGE's proposed increase is prudent given inflationary pressures and the specialized skills required in an evolving industry where the skillsets needed are more broad and in-demand than what was needed only a few decades ago.

b. Duplicative proposed adjustments to wages and salary should be rejected.

As discussed in PGE's Opening Brief, Staff's and AWEC's propose adjustments to labor costs are duplicative of each other and should be considered jointly. Each component of PGE's labor forecast addresses specific operational needs and market conditions. For this reason, PGE urges the Commission to approve the proposed labor costs for the 2025 Test Year as reasonable and necessary to support PGE's operations and customer service objectives. The 2025 Test Year forecast balances the need for cost control with the imperative to maintain a skilled, adequately staffed workforce in a challenging labor market.

Issue 42 - Labor Compensation, Key Customer Management

a. No adjustments should be made to PGE's FTE Key Customer Management labor O&M.

PGE disagrees with AWEC's recommendation to reduce Key Customer Management (KCM) labor O&M costs by $700,000. In addition to this proposed reduction being redundant to the sweeping labor compensation reductions proposed above, PGE maintains that the proposed expense for KCMs is both justified and reasonable, based on specific staffing additions to meet evolving customer needs. Contrary to AWEC's claim in its Opening Brief, the KCM budget can indeed be reasonably evaluated. The increase is directly tied to three additional positions - two added in 2024 and one transferred from another department in 2025. These are not speculative additions, but concrete staffing changes to enhance service to key accounts.

The KCM department provides critical functions for large, individually managed customers, including load forecasting and operations management. As the energy landscape becomes more complex, particularly for large customers, additional expertise and resources are required. The forward-looking approach takes into account the changing dynamics of the industry and the specific needs PGE identified for serving key customers. While AWEC suggests basing the budget on historical cost growth, this approach fails to account for these evolving needs.

The addition of three positions represents a measured and targeted increase in staffing, not an excessive expansion of the department. The increase is necessary to meet the service requirements for PGE's large customers in the 2025 Test Year. Therefore, PGE urges the Commission to approve the proposed KCM labor O&M costs as requested and reject AWEC's proposed reduction.

Issue 9 (b) - Annual Cash Incentives

a. *Including 50% of Annual Cash Incentives for PGE's non-officer employees is appropriate and consistent with Commission precedent.*

Staff raises no new arguments in its Opening Brief to support its proposed 75/25 split of non-officer Annual Cash Incentive (ACI) program. PGE has sufficiently outlined in its Opening Brief why its non-officer ACI is a merit-based program that supports PGE's customers as well as its shareholders and is thus eligible for the 50/50 split PGE requests. This recovery rate is consistent with Commission precedent in Dockets UE 374 and UE 197 and there is no reason to deviate here.

Like Staff, CUB also advocates for a disallowance of 75% of incentives, but based on a belief that incentives should be disallowed until the Company more effectively constrains or controls capital spending.[104] CUB's proposal should be rejected for the reasons set forth in PGE's Opening Brief, especially as it is contrary to Commission precedent and lacks any meaningful method of application. Specifically, as a party with decades of experience practicing before the Commission in cost recovery proceedings, CUB understands that prudent capital costs are recoverable. In a case where CUB made no arguments in testimony or briefing that specific capital project costs are imprudent, their claims that PGE should control its capital spending are baseless. CUB improperly rationalizes that a denial of reasonable compensation expense will incentivize controlling (prudent) capital spending. This line of reasoning has been rejected by the Commission in the past when it rejected calls to disallow capital costs "as an incentive for the company to proactively manage its project costs."[105] The Commission clearly articulated it did

[104] PGE thoroughly disagrees with CUB's assertion that PGE does not act prudently with respect to capital spending and rejects that premise of CUB's proposal. *See* PGE/1100, Kliever-Liddle/4-22.
[105] UE 374, Order 20-473 at 37.

"not agree that the disallowance of such costs would provide an incentive for the company to proactively manage project costs, particularly where there is no suggestion of alternate courses of actions the company should have taken…."[106]

Issue 9 (c) - Capitalized Incentives

a. Capitalized incentives were treated by PGE consistently with Commission Order No. 14-422.

PGE has sufficiently addressed Staff's and AWEC's misunderstandings in its Opening Brief, with AWEC even abandoning the issue in its own Opening Brief. All capitalized incentives are adjusted by PGE to remove financial and officer incentives from rate base, in accordance with the outcome of UE 283 and Order No. 14-422. No further adjustment is required.

Issue 9 (d) - Stock Incentives

a. Stock incentives should not be eliminated as they are a long-standing, key component of PGE's total compensation package that supports customer interests.

Staff offers no argument in its Opening Brief as to why stock incentives—a long-standing and key component of PGE's total compensation package—should be eliminated. Staff simply asks for their removal. Both AWEC's and CUB's Opening Briefs only conclusory assert that stock incentives align the interests of employees with the interest of shareholders. This bare-boned assertion is unfounded.

As PGE explained in its Opening Brief, stock incentives support customer interests. The design of stock awards support retention and provide incentive for those employees to act in the long-term interest and health of PGE—leading to outcomes that are good for customers as well as shareholders. No one disputes that

[106] UE 374, Order No. 20-473 at 38.

a financially sound and efficient PGE is good for all stakeholders, including customers. Stock incentives have previously been included in prior rate cases and there is no reason to fully disallow them here.

PGE also explained in its Opening Brief why AWEC's and CUB's arguments that stock incentives do not reflect an expenditure fail. Equity has a cost, even if not a direct cash outlay. The parties' challenge to stock incentives should be rejected.

Issue 9 (e) - Incentives Overheads

a. No adjustment should be made to PGE's requested incentive overheads allocation credit as the credit has been appropriately and accurately applied.

PGE has described its accounting practices in its Opening Brief, explaining how the allocation credit has been appropriately and accurately applied. AWEC's lingering confusion is no basis for an adjustment here.

Issue 9 (f) - Costs Related to Compensation

a. There is no need for any adjustment of these costs as no adjustment should be made to the other compensation amounts.

PGE addresses this topic in its discussion of Issue 42.

E. Capital Projects

Issue 11 - Project Attestations

a. AWEC's attestation proposal is administratively burdensome, requires duplicative review of material and should be rejected.

AWEC wants all projects included in rates by the rate effective date to be subject to attestations.[107] When the Commission has previously approved the use of attestations for capital project, a threshold was set that balanced the need to protect ratepayer interests by ensuring plant is used and useful prior to inclusion in rates without being unduly burdensome to the utility.[108] AWEC's proposal is unduly burdensome. However, PGE willingly offered a reasonable compromise. PGE's proposal to focus on projects over a $5 million threshold would include 85% of overall capital requests while an alternative $3 million threshold captures 92% of capital requests[109] while keeping the number of projects manageable and not overwhelming the administrative workload for all involved.

The Commission has previously approved requirements for officer attestations for non-blanket projects expected to cost $5 million or more,[110] major capital projects going into service six months after general rate request rates went into effect,[111] and limited types of generation and non-transmission plant over $1 million put into service *after* the general rate case hearing.[112] PGE is unaware of any prior decision by the Commission to require all capital projects have attestations—as AWEC is now proposing—likely because such a low threshold

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[107] AWEC Opening Br. 21.
[108] UE 374, Order No. 20-473 at 33.
[109] PGE/2400, Batzler-Meeks/48.
[110] *In the Matter of Portland Gen. Elec. Co. Request for a Gen. Rate Revision*, UE 335, Order No. 18-464 at 9 (Dec. 14, 2018).
[111] UE 374, Order No. 20-473 at 48-53.
[112] UE 374, Order No. 20-473 at 32.

would require over 100 projects to be subject to attestation.[113] While AWEC may see no issue with such a prospect, they fail to articulate why their overly broad attestation request is needed and how it could warrant the burden and exertion needed by PGE to prepare and submit the attestations as well as for Staff and others to review. AWEC's proposal is especially unreasonable when parties have put forth few if any proposed adjustments for the hundreds of projects PGE provided supporting material through evidence and data requests.

PGE still disagrees with the need for attestation for capital projects that parties had ample opportunity to review throughout this rate case process and thinks a balanced approach would only include projects placed in service between October 1 and December 31.[114] Moreover, if the aim of AWEC's attestation proposal is truly to ensure ratepayers are not paying for projects before they are used and useful, then there is no reasonable justification for AWEC's one-side and punitive proposal to not allow for a neutral over/under budget to actual cost.

Issue 12 - Contingency Funds

a. Staff's proposal to not allow recovery for contingency funds for Transmission and Distribution (T&D) projects should be rejected as lacking evidence and disregarding the Commission's recognition of the need to include contingency costs for projects.

No party except for Staff addressed this issue in briefing with Staff offering little more than "Staff believes it is unreasonable to assume use of all these contingency funds for the purpose of establishing rate base."[115] With no challenge to the prudence of the 50 T&D projects[116] that have contingency funds, Staff seeks to deny

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[113] AWEC is seeking attestations for capital projects greater than $1 million on a project-by-project basis as well as for capital costs less than $1,000,000 on a portfolio basis.
[114] PGE/1300, Batzler-Meeks/62.
[115] *See* Staff's Opening Br. 30.
[116] PGE's response to OPUC DR 561 provided 50 projects with contingency funds.

PGE recovery of approximately $28.9 million. Contingency amounts are and have been a standard part of the budgeting process for major construction projects because, as the Commission has recognized, "all construction projects inevitably involve some difficulties."[117] Despite the Commission acknowledging that due to the inevitable problems that will occur "estimates for projects include contingencies"[118] and that "in some instances, unanticipated circumstances can increase the costs to complete a project beyond those contingencies,"[119] Staff is improperly and without evidence proposing a disallowance of the use of prudent contingency funds. Staff states in its Opening Brief that it opposes PGE's "proposal to include any contingency funds in rate base in this case that are spent prior to the rate effective date" due to the timing being after Staff filed rebuttal testimony. Under Staff's new and quixotic reasoning, PGE would never be able to recover in a rate case for project contingency costs if the in-service date is after Staff's deadline to file rebuttal testimony. The Commission should reject Staff's adjustment because it disregards the prudence of the projects and their costs and would be administratively ineffective and burdensome.

Again, Staff never challenged the prudence of the projects in its two rounds of testimony or questioned the prudence of the contingency amounts for the separate projects, which were available for review through exhibits and workpapers since PGE's filing of opening testimony as well as the discovery process. Nevertheless, Staff is presuming the contingency costs are imprudent. Yet as the Commission has

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[117] *See In the Matter of Portland Gen. Elec. Co.'s Proposal to Restructure and Reprice Its Services in Accordance with the Provisions of SB 1149,* Docket UE 115, Order No. 99-697 at 52 and Docket UE 374, Order No. 20-473 at 35.
[118] UE 374, Order No. 20-473 at 35.
[119] UE 374, Order No. 20-473 at 35.

explained, "prudence disallowance must be based on a well-developed record, and a party proposing such an adjustment should include concrete examples."[120]

While Staff may consider it a reasonable compromise that PGE can "include the contingency fund expenditures in its next general rate request,"[121] that is an impractical and arbitrary postponing of the cost recovery for used and useful plant.

This is not a problem of Staff and parties not being provided sufficient information on T&D projects through a proceeding that began nine months ago. In a general rate case where a utility seeks to include in rate base all capital projects put in service since the company's last rate case, "[d]ue to the sheer number of capital projects that are included" [122] the Commission has pointed out that it does "not expect Staff to review all of the underlying documentation for every capital project proposed for recovery, regardless of size."[123] In a prior docket, Staff proposed exclusion of costs for projects put in service between a utility's initial rate case filing and the effective date for new rates (pro forma projects) and argued that Staff was not provided sufficient information to verify costs or evaluate prudence. The Commission rejected Staff's argument as well as Staff's suggestion that properly included costs for pro forma projects could be sought for recovery in a future rate case. Similar to the situation here, the Commission pointed out that "Staff did not identify any disallowances based on the project documentation it did receive."[124]

Additionally, without arguing for nonrecovery based on project information that was provided, Staff thinks it is reasonable to guarantee the next rate case will include duplicative review of projects. At a time when Staff and the Commission are

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[120] UE 374, Order 20-473.
[121] Staff Opening Br. 6.
[122] UE 374, Order 20-473 at 42.
[123] UE 374, Order 20-473 at 42.
[124] *Id.*

addressing more issues through various regulatory dockets, this is an abuse of administrative resources that will require needless work by PGE and all involved. Staff's proposal should be rejected on policy grounds alone. It is not an administratively efficient nor effective way of confirming that capital project contingency funds are prudent or that customers are paying for projects that are used and useful.

If the Commission does require attestations for these projects, the Commission should reject Staff's punitive recommendation that "plant at issue be included in rates at the lower PGE's actual costs, or the amount forecasted in the Test Year"[125] because it is arbitrary, one-sided, and lacking evidentiary support in the record.

Issue 13 - Horizon-Keeler BPA #2 230kV Line, Shute WJ1 and WJ2 Upgrade, and Shute Feeder Reconfiguration

a. PGE demonstrated the projects were prudent investments and Staff's proposed removal of $7.2 million from costs for the projects including contingency funds should be rejected.

The Commission should accept PGE's proposal to adjust the final plant-in-service for these projects' actual final values as of December 1, 2024.[126] Staff was the only party to address this issue in Opening Briefing. Staff agrees that the projects were prudent and that the investments are recoverable.[127] However, Staff states its position that $7,212,092 should be removed from the total costs of the three projects as "unused contingency funds."[128] For the reasons stated in Issue 12 – Contingency Funds and its Opening Briefing, PGE disagrees with Staff's proposed reduction.

[125] Staff Opening Br. 30.
[126] *See* PGE/1600, Cloud-Albi-Putnam/29 at 12-14.
[127] Staff Opening Br. 31.
[128] *Id.*

Issue 14 - Diesel Particulate Filter Installations

No adjustments should be made to PGE's request for recovery of Diesel Particulate Filter Installations and PGE is supportive of providing an officer attestation for cost recovery of completed installations in 2024.

Issue 15 - IT Capital Additions

a. PGE should recover its actual costs for investments in the Zero Trust Program and EMS update in rate base.

There is no additional argument for PGE to reply to as Staff's Opening Brief restated Staff's Position Statement, Issue 15.a. and no other arguments were presented. PGE's Opening Brief fully addresses this argument.

b. PGE should fully recover Network Fitness and CTO Desktop Fitness costs as these funds are critical for maintaining network security, stability, and accessibility, including essential cybersecurity efforts.

There is no additional argument for PGE to reply to as Staff's Opening Brief restated Staff's Position Statement, Issue 15.b. and no other arguments were presented. PGE's Opening Brief fully addresses this argument.

F. Constable and Seaside Battery Energy Storage Projects

Issue 16 (a) – Constable Battery Tracker

a. *PGE's proposal for a precautionary tracker is fair should be approved. It aligns customer benefits with costs and ensures timely recovery of investments in critical infrastructure.*

PGE respectfully requests that the Commission approve its request for a precautionary tracker along with an officer attestation for Constable's revenue requirement impacts. Such a request for a precautionary tracker is reasonable under these circumstances where there is potential for a brief delay between the time of PGE's requested rate effective date and Constable's in-service date.

AWEC disregards PGE's justification for this tracker claiming that if this is adequate justification, then anything could be used to justify the use of a tracker.[129] In opposing PGE's proposal, AWEC is downplaying the significance of the entirety of the regulatory lag that PGE has incurred recently,[130] and that PGE would incur should the Commission decline to adopt its proposal for a tracker. The totality of these circumstances and associated justification for the reasonableness of PGE's proposals should not be so easily dismissed.

Should the Commission fail to approve PGE's request for this precautionary tracker in this case, this large resource that will benefit customers will cause PGE to incur significant and unreasonable regulatory lag. PGE is requesting this Constable tracker to ensure appropriate alignment between the substantial benefits of this major project and the prices charged to customers.[131]

In response to Staff's proposed conditions for the Constable tracker, PGE continues to have concerns with Staff's first condition of a January 31, 2025

[129] AWEC Opening Brief at 25.
[130] PGE/1100, PGE/2100, PGE/2200.
[131] PGE/2200, Liddle – Kliever/13, at 8-9.

deadline for the attestation, and instead seeks a deadline of February 28, 2025. Additionally, regarding Staff's third condition, PGE does not agree with the cap Staff articulated. PGE is already absorbing more than a year of lag on new investments included in PGE's 2025 general rate case that were in service prior to the effective date of PGE's 2024 general rate case.[132] This lag can impact PGE's financial performance because PGE must bear the costs during the period without immediate rate recovery. Staff's third proposal to cap costs for Constable is discussed below in subpart (b).

Issue 17 (a) – Seaside Battery Tracker

a. Parties' request to deny PGE a tracker for Seaside unfairly ignores significant regulatory lag, disregards proposed safeguards and could lead to financial harm or delayed customer benefits.

The Seaside battery energy storage system is expected to be placed into service in June 2025 and, therefore, PGE requested a tracker for Seaside to include the plant within the UE 435 filing. This request is needed due to the significant growth PGE is experiencing and will continue to experience in 2025, which will result in substantial regulatory lag, well in excess of total depreciation.

The purpose of the Seaside tracker is for customers to only pay for the asset when they start receiving its benefits, ensuring a fair balance between costs and services provided.[133] The Seaside project is targeted to be online in mid-2025.[134] Parties oppose the Seaside tracker as single-issue ratemaking. Staff noted that PGE must demonstrate that the circumstances warrant its request for an exception to typical ratemaking.

[132] PGE/1100, Kliever-Liddle/25.
[133] PGE/2200, Liddle-Kliever/14.
[134] *Id.*

As discussed in Issue No. 56, CUB asks the Commission to move the rate effective date for the GRC from January 1 to Mid-June to align with the timing of Seaside. To justify this request, CUB notes that this would reduce burden on customers associated with winter rate increase. While PGE understands this concern around the timing of customer rate impacts and agreed in Opening Briefs to alter its timing in the future, CUB's proposal to significantly move the rate effective date and eliminate all trackers is untenable in this case.

Parties' position that PGE simply should have waited to file its general rate case is unreasonable and ignores the other considerations at issue here. PGE is and has been experiencing unprecedented levels of regulatory lag as it has invested to strengthen its system and make investments to realize the clean energy transition over the past several years. PGE will continue to experience lag on its capital investments exclusive of Seaside and in excess of depreciation, into 2025. Without approval of PGE's proposed tracker, the significant lag associated with Seaside would be extreme and financially harmful.[135] Requiring PGE to absorb this regulatory lag is unreasonable and not a balanced approach to regulatory lag, particularly given PGE's proposed conditions, which would only allow the inclusion of Seaside upon showing that PGE's regulatory lag on all other assets is indeed outpacing depreciation in 2025.

Parties did not address the fairness of PGE's proposal or the significant regulatory lag that would result from the Commission adopting parties' approach for Seaside combined with the regulatory lag that PGE has already incurred.[136]

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[135] *Id*. 17.

[136] As noted in PGE's Opening Brief, the record shows that approximately $100 million of additional capital went into service in 2023 that is not included in current rate base. For the full 2024 calendar year, PGE will under-recover approximately $65 million due to regulatory lag on in-service projects not in customer prices. Although PGE pointed out in reply testimony that since January 2022, PGE

Instead, they focus on this being an unreasonable form of single-issue ratemaking, while overlooking the merits of PGE's proposal, which directly addresses the core concerns typically associated with single-issue ratemaking. PGE is proposing specific safeguards and conditions to ensure a balanced and fair approach. This failure to consider PGE's proposal misses an opportunity for a more constructive dialogue on how to appropriately recover costs for critical infrastructure investments while protecting customer interests.

Should the Commission deny PGE's request for the Seaside tracker, PGE has a few options to address the resulting regulatory lag. PGE would either need to file another rate case promptly to ensure timely cost recovery or adjust the utilization of the plant to reflect the fact that its costs are not currently being recovered from customers.[137] PGE strongly opposes delaying recovery of prudently incurred costs as it is contrary to the cost-of-service regulatory paradigm and the statutorily prescribed general rate case schedule.[138]

Issue 16 (b) & 17 (b) – Constable and Seaside Costs

a. Staff fails to consider the actual prudence of the Constable and Seaside projects, and they fail to properly align their proposal with RFP workpapers. Staff's proposed reductions should be rejected.

In Staff's Opening Brief, Staff recognizes that their original proposals for both Constable and Seaside improperly excluded AFUDC and PGE ownership costs that were considered in the 2021 RFP. As such, they have adjusted their proposed reductions for Constable and Seaside of $14 million and $44 million, respectively, to

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has under-recovered approximately $150 million due to regulatory lag on capital investments, no party addressed this in their rebuttal testimony or in opening briefs. PGE Opening Br. 55

[137] PGE/2200, Liddle-Kliever/20.

[138] PGE/2200 Liddle-Kliever/20.

$10.1 million and $35.1 million.[139] Not only do these new amounts also not properly align with the outcome of the 2021 RFP workpapers, as clearly identified by PGE in PGE Exhibit 2804, but PGE strongly disagrees with Staff's assertion that final project costs must exactly match to RFP bid amounts. Such a requirement could preclude the recovery of prudent and justifiable costs to complete a project that serves customers. While Staff's justification is to maintain the integrity of the RFP process, its proposal actually undermines the Commission's own processes, which separate resource selection with ultimate contracting and procurement decisions. The check against PGE bidding low benchmark bids and then increasing costs is not to hold a project to its RFP price, but instead, the question is whether PGE's subsequent commercial decisions were reasonable and prudent for customers. Staff does not challenge the prudence of any of the decisions made to execute the projects or the reasonableness of PGE's actions.

This point is mostly moot in the case of Constable, as detailed in PGE Exhibit 1804, PGE's proposed revenue requirement for Constable is in alignment with the costs included in the RFP. However, confusingly Staff still references completely different and incorrect source materials, which PGE has already pointed out. As for Seaside, the only difference to the RFP is related to the purchase of land, as PGE is currently analyzing the long-term customers benefits of buying the land as opposed to leasing it. Additional amounts for the land are well below Staff's $35.1 million proposed reduction. Additionally, Staff makes no argument that PGE has acted improperly by seeking to purchase the land for Seaside.

Staff's analysis is not based on a review of the reasonableness or prudence of the actions take to complete the projects and fails to properly review the costs

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[139] Staff's Opening Br. 34-35.

associated with the RFP. The Commission should reject Staff's proposed reductions based on incomplete and faulty analysis.

G. Non-Labor Operations and Maintenance (O&M) Expense

Issue 20 - Non-Labor Generation O&M Expense

a. AWEC's proposed reduction of $5,790,911 is overly simplistic and is an approach previously rejected by the Commission.

AWEC's proposal is based on an overly simplistic inflation-based approach that the Commission has previously rejected as an independent means for establishing PGE's revenue requirement.[140] The Commission has previously stated that such an approach fails to adequately consider the specific programs and costs necessary for PGE's operations.

Additionally, AWEC's methodology is fundamentally flawed as it ignores the 2024 amounts already established through the ratemaking process in UE 416. By basing their calculations on 2023 actuals, AWEC is effectively attempting to relitigate the 2024 rates, which disregards a year of regulatory process that has already taken place. PGE's approach of using a budget built from the UE 416 revenue requirement as a starting point and then applying nuanced escalators for each cost element, along with adjustments for known and measurable changes, is a more accurate and reasonable method for forecasting 2025 expenses. The forecasted 2025 expenses are supported by the extensive evidence submitted in the docket, and information supplied to parties in discovery, which AWEC chooses to ignore. See PGE's Opening Brief, Issue 20(b) describing the supporting information.

Furthermore, AWEC has failed to provide any specific evidence of imprudence in PGE's proposed expenses. Despite having access to detailed account-

[140] UE 115, Order No. 01-777 at 12 (Aug. 31, 2001) "We find no basis to adopt CUB's proposed adjustment to PGE's distribution O&M costs. As PGE notes, CUB has failed to question a single program as unnecessary or unreasonable, and does not allege that PGE's forecast of the cost of any program is inaccurate. We have previously rejected an inflation-escalator approach as an independent means for establishing PGE's revenue requirement."

level information and ample opportunity for discovery, AWEC has not identified any particular non-labor generation costs as unnecessary or unreasonable. This lack of specific critique undermines the credibility of their proposed reductions. In contrast, PGE has fulfilled its burden of demonstrating that its proposed expenses are just and reasonable through detailed forecasts and supporting documentation. Therefore, AWEC's generic, inflation-based reduction should be rejected in favor of PGE's more nuanced and well-supported expense forecast.

Finally, PGE has considered the potential impact of AWEC's proposed reduction but determined that accepting it would pose unacceptable risks to operations and safety standards. The non-labor generation O&M expenses include critical costs for specialized maintenance, environmental compliance, and safety equipment. Reducing these costs without identifying specific areas of unnecessary expenditure could compromise the integrity and reliability of PGE's generation facilities, potentially leading to increased risks of costly unplanned outages.

The Commission should reject AWEC's proposal and approve PGE's well-supported and prudent non-labor generation O&M expense request for 2025.

Issue 20 (b) - Non-Labor A&G Expense, General

PGE seeks recovery of approximately $221.7 million of non-labor A&G expense, as explained in PGE’s Opening Brief, and expounded on below.

a. AWEC’s proposed generic reduction of $4.6 million to PGE’s non-labor A&G expense is redundant, inconsistent, based on faulty analysis and should be rejected.

AWEC's proposal of a generic reduction fails to account for their other proposed reductions in specific A&G categories such as directors' fees, revolver fees, margin net interest, and broker fees, making it an overlapping and inconsistent proposal. The specific reductions total $6.8 million, which exceeds AWEC's proposed generic

overall reduction to A&G. This demonstrates that AWEC's approach is not only duplicative but also excessive even by their own methodology. It should also be noted that AWEC's proposal overlaps with Staff's recommendations for reducing non-labor A&G expenses related to casualty and property insurance.

AWEC's argument also lacks specificity and fails to provide competent evidence of imprudence in PGE's proposed expenses. Despite having access to detailed account-level information and ample opportunity for discovery, AWEC has not identified any particular costs as unnecessary or unreasonable. Their claim of being unable to perform a detailed variance analysis contradicts their ability to propose specific reductions in other areas. The Commission has previously rejected such generic, inflation-based approaches for establishing revenue requirements, emphasizing the need for specific evidence of imprudence. By basing their calculations on 2023 actuals and ignoring the 2024 amounts established through the UE 416 ratemaking process, AWEC is effectively attempting to relitigate settled matters. This approach disregards the regulatory process and fails to consider PGE's actual regulated earnings in 2023. Given these significant flaws in AWEC's methodology and the lack of specific evidence supporting their proposed reductions, the Commission should reject AWEC's proposal to reduce PGE's non-labor A&G expenses.

Issue 20 (c) - Non-Labor A&G Expense, Office Supplies

a. FERC Account 921 – Office Supplies

Though unacknowledged by Staff, PGE is seeking recovery for ongoing expenses in the 2025 Test Year and beyond, which include training and organizational change management for several new software systems. These systems have been or will be implemented during the Test Year. The purpose is to ensure PGE's workforce is

well-equipped to utilize the expanded capabilities and fully realize the potential of these new solutions.[141] Staff's reduction argues that these expenses are nonrecurring while at the same time claiming they are not reasonably certain to occur.[142] PGE's testimony adequately supported its proposed increase, as fully described in its Opening Brief, and Staff's recommendation should be rejected.

AWEC's arguments are fully addressed in PGE's Opening Brief and should be rejected.

Issue 20 (d) - Non-Labor A&G Expense, Directors' and Officers' Expense

PGE fully addressed this issue in its Opening Brief at Issue 20(d), and any overlap in Issue 10.

Issue 21 (a) - Non-Labor A&G Expense, Property Insurance

Staff does not dispute that maintaining a prudent insurance package is critical to PGE's long-term financial health and benefits customers greatly through the stability it can provide. As explained in its Opening Brief, PGE's insurance coverage helps to protect PGE's assets and operations from unexpected losses or damages, which helps PGE manage risks associated with its operations. This insurance also helps PGE avoid large, unexpected expenses that could otherwise impact customer prices. Staff's proposed adjustments, however, directly undermine PGE's ability to maintain property and general and auto insurance, as lower insurance premiums mean less coverage. Staff fails to address the negative ramifications of its proposed adjustments, but the Commission should not ignore them.

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[141] PGE/1400, Mersereau-Van Oostrum-Batzler/26-27.
[142] Staff/3800, Peterson/6.

a. Staff provides no compelling reason why the Commission should not adopt the compromise escalation factor of seven percent for property insurance.

In its Opening Brief, Staff continues to advocate that no escalation factor be applied to PGE's 2025 property insurance expenses. Staff bases its recommendation solely on PGE's adoption of a post-loss funding model. Staff's position ignores that post loss insurance still experiences inflationary impacts and further ignores that the post-loss plan is just one part of PGE's insurance portfolio.[143] A more reasonable position is the alternative Staff offered in its rebuttal testimony of an escalation factor of no more than seven percent.[144] The Commission should adopt this compromise position (as PGE did) and allow recovery of $4.9 million for property insurance expense representing the known and measurable 2024 property insurance expense escalated at a rate of seven percent.

Issue 21 (b) - Non-Labor A&G Expense, Casualty Insurance

a. The Commission should accept PGE's industry-specific escalation rate instead of Staff's generic data.

In its Opening Brief, Staff claims that it does not matter that the MarketScout data it relies on is not utility-industry specific.[145] Staff ignores the particular concerns impacting the utility sector, including wildfire losses and increased underwriting scrutiny, through its continued reliance on generic insurance trends. Staff also does not address the other flaws of using only a single-quarter of general liability insurance data as an escalation factor, which were discussed in PGE's Opening Brief. The Commission should reject Staff's approach. PGE's forecast is better aligned to industry-specific considerations than Staff's single quarter of generic insurance data.

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[143] PGE/1400, Mersereau-Van Oostrum-Batzler/31.
[144] Staff/3400, Ball/4.
[145] Staff Opening Br. 43.

Moreover, contrary to Staff's assertions, PGE has relied on third-party broker advice to support its forecast and has provided related information in response to Staff's questions. For instance, PGE Exhibit 2503C, which is labeled with the date and sources of the information as the Quarter 2 2024 update, provides two diverging forecasts for excess liability that were factored into PGE's forecast, along with other input from the third-party broker. Exhibit 2503C is specific to the utility industry and provides a more accurate and reliable projection than Staff's broad non-industry specific source, MarketScout. Staff now claims it does not have enough "context"[146] regarding this exhibit. However, any questions or confusion by Staff should have been addressed with a data request or in cross examination testimony, not raised in its Opening Brief.

Staff's adjustment also starts with the actual premiums for 2024, which were lower than anticipated at the time PGE filed its rate request. That adjustment, however, ignores the expected continued escalation of insurance costs. From 2023 to 2024, PGE experienced a 121% increase in excess liability and wildfire coverage.[147] Thus, when compared to the 121% increase in 2023 to 2024 actual premiums, coupled with the limited supply of coverage PGE will likely face for 2025, a 33% projected increase is actually conservative.[148]

Issue 21 (c) - Non-Labor A&G Expense, Insurance Rebates and Credits

a. There should be no adjustments for insurance rebates and credits.

Staff's position in its Opening Brief is essentially that because PGE previously received insurance credits and rebates, PGE will continue to receive them in the

[146] Staff Opening Br. 43.
[147] PGE/1400, Mersereau – Van Oostrum – Batzler/34.
[148] *Id.*

future. Staff's overly simplified logic ignores that these credits are neither guaranteed nor predictable and are given at the sole discretion of the insurers. Just because they were received in the past three years, does not mean they will be received in 2025, and certainly not in a way that is readily calculable. Staff's position also ignores that these credits are not applicable to PGE's post-loss insurance plan. The Commission should reject Staff's proposed offsets as unfounded.

Issue 22 (a, b, c) - Non-Labor A&G Expense, Revolver Fees, Margin Net Interest, Broker Fees

a. PGE's request to recover $3.5 million in Revolver Fees, Margin Net Interest, Broker Fees should be approved.

Staff recommends no adjustment to PGE's proposed recovery of revolver fees, margin net interest and broker fees.[149] Staff's testimony describes its basis for not adopting AWEC's disallowance.[150] Only AWEC recommends a reduction to revolver fees, margin net interest and broker fees, which are duplicative and excessive of its overall reductions to A&G general disallowance, as discussed in Issue 20 (b) above.

AWEC ignores that revolver fees include revolver extension fees, annual fees, and agent and legal fees. They do not include any interest on cash borrowed under the facility.[151] Revolver fees provide PGE access to a line of credit and are not the actual interest paid on this credit when utilized. Any actual debt and interest from this facility, just like any other types of short-term debt, is not included in PGE's revenue requirement, while the access is long-term in nature.[152] These fees, which allow PGE long-term access to a revolving line of credit, directly benefit customers

[149] Staff Opening Br. 44.
[150] Staff/2900, Pileggi/5-6.
[151] PGE/1400, Mersereau–Van Oostrum–Batzler/44.
[152] *Id.* 45.

and are appropriately included within PGE's revenue requirement and results of operations, consistent with Commission Order No. 10-410.[153]

Similarly, AWEC's recommendation for margin net interest incorrectly asserts that PGE receives a financing benefit that does not exist. This is because these amounts, which PGE briefly holds for energy, capacity, transmission, and fuel purchase contracts, must be readily available to pay back. That is, PGE must maintain immediate liquidity of amounts.[154]

AWEC incorrectly asserts that brokers fees are included in PGE's forecast in Account 557. As explained in PGE's Surrebuttal, "[w]hile actual broker fees are recorded in FERC account 5570001, department 016, accounting work order 7000000545, because PGE has included a forecast for rate making in A&G since 2011, these costs are purposefully excluded from amounts forecast in Account 557. Therefore, PGE adds the amount for the brokers fees as an adjustment in the administrative and general expenses."[155] There should not be an adjustment to PGE's broker fees.

Issue 22 (d) and 26 - Non-Labor A&G Expense, Membership Expense

a. PGE's request for $2,730,848 for membership dues and expenses should be approved.

PGE disagrees with Staff's position on membership dues and their recommended adjustment of $301,984.[156] PGE maintains that the full amount of membership dues included in the 2025 Test Year are necessary and appropriate for recovery. PGE disagrees with Staff's blanket application of a 25% reduction for trade organization

[153] PGE/1400, Mersereau–Van Oostrum–Batzler/45.
[154] *Id*. 47.
[155] *Id*. 40 at 3-7.
[156] Staff's Opening Br. 50-52.

dues, as this approach fails to recognize the specific benefits these memberships provide to PGE's customers.

Firstly, the trade organizations PGE belongs to directly support utility business operations and provide tangible benefits to customers. These memberships allow PGE to stay informed about industry best practices, technological advancements, and regulatory developments, all of which ultimately benefit customers through improved service and efficiency. Secondly, Staff's application of a 75/25 split between ratepayers and shareholders based on a 1989 Commission precedent does not reflect the evolving nature of these organizations and their activities, especially when as the Commission has recognized, "Trade associations provide valuable research and other services to utilities."[157] Many of these associations now focus heavily on customer-centric initiatives, sustainability efforts, and industry-wide improvements that directly benefit ratepayers.

Regarding the Edison Electric Institute (EEI) dues, PGE maintains and confirms that the portion related to lobbying activities has already been removed. Staff's assertion that the invoice amount matches the amount recorded in FERC Accounts does not necessarily negate this fact, as the adjustment was made internally before recording. Furthermore, organizations such as the Mortgage Bankers Association, Certified Property Managers, Harvard, Oregon Women Lawyers, Center for Energy Workforce Development, the Latino Corporate Directors Association, and the Society for Human Resource Management do provide indirect but significant benefits to ratepayers by helping us maintain a skilled and diverse workforce, which is crucial for providing reliable and efficient service.

[157] *In the Matter of NW Nat. Gas Co. Gen. Rate Increase,* UG 81, Order 89-1372 (October 19, 1989).

The Commission should reject Staff's proposed adjustment. The membership dues in question are prudent expenses that enable PGE to stay at the forefront of industry developments, ultimately benefiting customers.

Issue 10 - Non-Labor A&G Expense, Directors Fees

a. PGE's request for approximately $3.7 million of expenses related to Directors' and Officer's expenses should be approved. These expenses are directly related to PGE's status as a publicly traded company, offering numerous benefits to customers.

AWEC proposes that all Directors' and Officers' stock compensation be removed from this case and that PGE split the remainder of Directors' and Officers' expenses with customers, with PGE paying for 90% of the category.[158] AWEC proposes these adjustments because they assert that "directors' activities are predominantly for the benefit of shareholders," arguing that stock-based compensation incentivizes shareholder-centric decisions.[159] In their Opening Brief, AWEC argues 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."[160]

As a publicly traded company, PGE is mandated by SEC regulations to maintain a board of directors. If federal regulation requires PGE to have an expense, and if that expense itself is not excessive, the expense is prudent and appropriately recoverable. While it's acknowledged that directors have fiduciary responsibilities to shareholders, this does not negate the necessity of these expenses for regulatory compliance.

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[158] AWEC/300, Mullins/34-35 at 15-2.
[159] *Id.*
[160] AWEC's Opening Br. 18-19.

The State of Washington may have a general policy of sharing the expenses between shareholders and customers but does so equally not with a 90/10 split.[161] Furthermore, AWEC does not point to any Oregon regulatory policy or precedent to support their position.[162] Without clear Oregon precedent supporting AWEC's stance, PGE maintains that these required and reasonable director expenses should be recoverable through rates.

AWEC's proposal ignores the regulatory process and the legal requirement for PGE to maintain a board of directors, overlooks the benefits of PGE's publicly traded status, and incorrectly assumes that PGE's board does not serve customers. In their Opening Brief, AWEC claims PGE has not provided credible evidence that directors' actions are not primarily for the benefit of shareholders.[163] However, in addition to (and often as a part of) its fiduciary duty to shareholders, PGE's board also provides oversight and makes decisions that directly benefit customers. The board of directors sets plans for PGE's future to ensure the long-term health of the company, ensuring that both customers and shareholders benefit from PGE's operations.

PGE's request for approximately $3.7 million of expenses related to Directors' and Officer's expenses should be approved. These expenses are directly related to PGE's status as a publicly traded company, offering numerous benefits to customers. These benefits include oversight through federal regulations, increased transparency via reporting requirements, the collective expertise of board members, and access to cost-effective capital.

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[161] *WUTC v. Avista Corp. d/b/a/ Avista Utils.*, Docket UE-090134, Order No. 10 (Dec. 22, 2009).
[162] AWEC/300, Mullins/34-35 at 15-2.
[163] AWEC's Opening Br.18-19.

Issue 19 - Non-Labor Virtual Power Plant (VPP) Expense

a. *No adjustment should be made to PGE's request for an incremental spend of $4.0 million necessary to fund further development and operation of the Virtual Power Plant (VPP) program.*

A significant portion of increased VPP program costs are driven by additional staffing needs to both implement and operate the VPP. The 2025 Test Year expenses for the VPP program include 13 full-time equivalents (FTEs) totaling approximately $2.5 million [164] These expenses are ongoing and not just one-time start-up costs as Staff asserts.[165] In addition to Staff's recommendation to reduce PGE's FTEs (which PGE addresses in the Issue 9 – Compensation section of this brief) Staff seeks a $1.5 million reduction to non-labor O&M expense for VPP by incorrectly claiming "most" represents one-time start-up costs. These are costs for software, tracking program for DSGs that will be ongoing costs for maintenance and training that will be needed for on-going program development.

Staff does not present evidence countering this ongoing operational aspect to including the VPP's expense and ignores PGE's testimony outlining this information.[166] In fact, Staff ignores the evidence PGE presented on the enrollment in VPP customer programs and incremental MW growth that has kept pace with prior years, as fully discussed in PGE's Opening Brief.[167] These expenses and FTE staffing are needed to implement and operate the VPP programs going forward. Staff's position appears to stem from its lack of understanding and analysis of the VPP in spite of what PGE has provided. This is not a basis to reject the evidence PGE has submitted justifying the VPP's expenses in the Test Year.

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[164] Staff/2400, Dlouhy/7.
[165] PGE/1600, Cloud-Albi-Putnam/22; *See* Staff's Opening Brief at 37-38.
[166] PGE/1600, Cloud-Albi-Putnam/22 at 12-17.
[167] PGE Opening Br. 81.

Again, PGE is open to conducting a stakeholder workshop to educate parties and delve deeper into how the VPP, ADMS and DERMS benefits participants and intersect with one another. Ultimately, this would provide the communication and information Staff needs where "Staff is unable to ascertain the efficacy of the program."[168]

PGE's Opening Brief on this issue addresses the remaining argument presented by Staff on the VPP program.

Issue 23 - Non-Labor T&D Expense, Routine Vegetation Management

a. The Commission should reject Staff's unsupported attempts at a reduction of $6.2 million in RVM O&M expenses.

No one disagrees that vegetation management is critical to ensuring a safe, reliable, and resilient system. The Commission should accept PGE's prudent forecast for RVM without any adjustment. As explained in PGE's testimony, and supported by workpapers and discovery responses, the increased spending is driven primarily by the increased cost of contract labor to remove vegetation. Staff does not dispute that there are increased market pressures that lead to this projected increase in contract labor.[169]

Staff's only basis for its proposed adjustment is a desire to reduce RVM spending to first "measure" PGE's "performance." but does not describe any specific concerns with *how* PGE completes RVM. Staff does not perform any analysis of the supporting information provided by PGE. Staff even walks away from its own testimony on whether RVM spend is correlated with contact violations. Staff simply

[168] Staff's Opening Br. 38.
[169] The issue with the four forestry positions appears also to be resolved, as it was not addressed by Staff in its Opening Brief.

wants to delay increased spending for an unspecified "efficacy" review. This is not sufficient grounds to reject PGE's prudent forecast on this crucial work.

Moreover, Staff's proposed adjustment undermines the statutorily required vegetation management work PGE must complete and contradicts Staff's own directives for increased clearance controls. PGE has undertaken mid-cycle trimming at OPUC Safety Staff's recommendation to shorten trim cycles and similarly increased clearance from 8 feet to 10 feet at Staff's direction.[170] PGE forecast its RVM spending with these particular Staff-directed goals in mind. Staff should not now undermine these goals in this proceeding by denying the necessary spending in furtherance of ill-defined future studies.

b. The Commission should likewise reject AWEC's proposed reduction of $4.29 million to RVM as unsupported.

AWEC, too, asks for a review of "the effectiveness" of PGE's RVM but likewise does not identify any specific issues with how PGE performs its crucial RVM work or provide proposed metrics. Nor does AWEC contest that PGE's contract labor will cost more due to market pressures. The Commission should reject AWEC's proposal for the same reasons that the Commission should reject Staff's proposed adjustment.

AWEC also challenges PGE's use of 2024 budgeted costs, rather than 2023 actual costs, in calculating the increased spending. But, as explained in PGE's testimony, the primary driver of the requested increase to the 2025 RVM request relates to the negotiated multi-year contract crew rates with Asplundh Tree Expert Company (Asplundh). If the Commission were to agree with AWEC's argument that multi-year contract escalation costs should not be recovered in subsequent rate case

[170] Hr'g Tr. 22:18-23:16; *see also OPUC Safety Report No. E19-57R.*

proceedings, PGE would be disincentivized to enter multi-year contracts for services that benefit its customers.

Issue 24 - Non-Labor T&D Expense, Utility Asset Management (UAM)

a. PGE has justified its proposed Test Year amount for Utility Asset Management (UAM) and needs to perform these essential operations.

Staff's Opening Brief reiterates its assertion that PGE provided insufficient evidence supporting PGE's proposed increase in UAM spending. PGE already responded to this criticism at length in its own Opening Brief, citing examples in the extensive record. PGE believes that, based on this evidence, the Commission will find the proposed amounts are reasonable and prudent.

PGE also disagrees with Staff's proposal that its 2025 Test Year should be based on 2023 actuals and escalated using the All-Urban Consumer Price Index (CPI). Commission precedent supports the use of industry-specific information, rather than a simple CPI index for estimating test-year expenses, which is exactly what PGE did.[171] PGE also maintains that the 2024 rates from UE 416 were well established and serve as the more relevant figures instead of the 2023 actuals, as outlined in testimony and PGE's Opening Brief.

Like with RVM, UAM expenses are necessary to maintain safety, reliability, and compliance. PGE performs its statutorily required UAM in conjunction with Commission Safety Rules. As PGE explained in its Opening Brief, it did consider whether it could perform the necessary maintenance work—including those activities otherwise directed by Staff—with Staff's proposed reductions. PGE concluded reducing the UAM activities to better align with Staff's proposed

[171] See *In the Matter of Pacificorp, dba Pac. Power, Request for a Gen. Rate Revision*, Docket UE 374, Order No. 20-473, (Dec 18, 2020).

adjustment would undermine the important risk assessment, maintenance planning, and performance monitoring needed to ensure safe and reliable grid infrastructure operation.

Issues 25 and 41 - Non-Labor Customer Accounts and Services Expense

AWEC and Staff both suggest adjustments to Customer Accounts and Customer Service Expense that would be duplicative if both were permitted. While they both seek to adjust the non-labor O&M expense by relating costs to 2021 to 2023 historical levels, AWEC proposes a separate adjustment which results in a larger reduction.

a. AWEC's proposed reduction of $5.25 million for Customer Service and $2.6 million for Customer Accounts O&M should be rejected.

The record before the Commission supports PGE's request for Customer Services and Customer Accounts non-labor O&M as reasonable. AWEC's arguments with Customer Accounts and Customer Service expense ignores the evidence of cost drivers, known and measurable changes in costs and activities, the budget amount for 2024, and the escalators presented to evaluate and support the 2025 Test Year, which PGE addresses more fully below at Issue 55.

b. Staff's recommended adjustments to FERC Account 908 (Customer Service) of $1.5 million and $1.5 million for Account 903 (Customer Accounts)

Staff proposes PGE should spend at 2021-2023 level and ignores the needs the justified increases from the UE 416 rate case and presented in this rate case which are reasonable, justified, and supports needed activities for customer service billing, customer programs, and information on how customers can participate in PGE programs and offerings. Staff's reliance on historical amounts does not account for the single largest driver of the increase in 2025 compared with 2024 is related to a Distributed Standby-Generation (DSG) amortization. The DSG amortization is the

expense offset to the requested additional expansion of DSG as a capacity resource to serve customers. In addition to the DSG amortization, other increases for billing expense and customer service, for a growing customer base; customer offerings, and the incorporation of Sch 109 Energy Efficiency into base rates, agreed upon in 2024 rate review where not recognized in Staff's historical amounts. Due to their disregard for known and measurable changes for the 2025 Test Year, Staff's adjustment should be rejected.

H. Taxes

Issue 18 (a) - Constable & Seaside Investment Tax Credits (ITCs), Amortization Vehicle

a. *Parties agree on this issue.*

PGE, CUB, Staff, and AWEC agree that the ITCs should be amortized through the revenue requirement for the asset and not through a separate schedule.

Issue 18(b) - Constable & Seaside ITCs, Amortization Period

a. *PGE, Staff and CUB agree to include ITCs for Constable and Seaside in the revenue requirement as a decrease to tax expense and rate base, amortized over the assets' depreciable life.*

PGE continues to support amortization of these ITCs over the depreciable life of the assets. AWEC proposes amortizing the ITCs within the revenue requirement, but over a five-year period. As mentioned in PGE's Opening Brief, AWEC's proposal is disconnected from the standard treatment of assets included in base rates. AWEC's proposal differs from PGE's initial plan, which was tied to the Seaside tracker and front-loaded the ITCs with gradual annual reductions through a supplemental schedule that would be updated annually to prevent a sudden, steep price increase for customers. AWEC's proposal appears to opportunistically create a mismatch in

base rate treatment of these assets in which, for depreciation purposes, the asset value is recovered over the life of the asset, but the reduction of expense and rate base associated with the credit value is compressed into a much shorter time period.

Issue 18 (c) - Constable & Seaside ITCs, Value to Amortize

a. The ITC value should be the actual value received by PGE when the ITCs are sold less the cost to sell up to 10%, which is consistent with the Commission-approved treatment of production tax credits.

PGE proposes that the treatment of the ITC sale be similar to the treatment previously approved by the Commission for the sale of 2023, 2024 and 2025 PTCs. Customers will receive an offset to rate base for the sale of ITCs in the amount of the actual value received for the ITCs, provided that such actual value shall not be less than 90% of the face value of the ITCs. In other words, the cost to sell the ITC and their discount may not exceed 10% of the face value of the ITC. Staff and CUB do not object to PGE's proposal.

AWEC objects to PGE's proposal for valuing the ITCs; however, this appears to be based on AWEC's misunderstanding that PGE is requesting a blanket 10% discount from the face value of the ITCs. In fact, PGE is not seeking a blanket 10% but proposing, consistent with AWEC's final round of testimony, that "the discount on the sale and associated accounting should be determined at the time the sale is made."[172] PGE's approach is consistent with Commission precedent for the sale of PTCs and would determine the value of the ITCs at the time of the sale based on the actual sale price net of the cost to sell, which for ratemaking purposes cannot be less than 90% of the face value of the ITCs. AWEC offers no reason for the Commission to deviate from this approach.

[172] AWEC/300, Mullins/46.

Issue 18 (d) - Constable & Seaside ITCs, Normalization Opt-Out

This issue is now moot as PGE has agreed to the extent an opt out is required, "that we would opt out of normalization in order to obtain the treatment of the ITCs as proposed." In its Opening Brief, AWEC acknowledges that this issue is resolved. AWEC Opening Brief at 29.

Issues 29 and 60 - Anderson Readiness Center ITCs

PGE will accommodate AWEC's position on the ITCs associated with the Anderson Readiness Center but we do not agree with AWEC's assessment that PGE "will be able to utilize tax credits associated with the Anderson Readiness Center in 2025." As PGE stated in testimony, PGE will opt out of normalization for this credit and continues to have no current ability to utilize this credit. It is PGE's understanding that when normalization rules do not apply, the GAAP deferral method requires ITC amortization to begin when an asset is placed in service and continues over the life of the asset. Based on this current understanding, PGE has proposed the following treatment to reflect this benefit in customer prices, which is reflected in PGE's updated revenue requirement provided as PGE Exhibit 2401:

- An 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.

The deferred credit will amortize, straight-line over the depreciable life of the asset, while the deferred tax asset would decline based upon PGE's ability to utilize the credit within its tax return, which is not currently forecasted to occur in 2024.

AWEC's proposed adjustment is wrong and should be rejected for at least two reasons. First, it relies on the mistaken assumption that PGE can utilize the ITCs in 2025. PGE confirmed in testimony that this is not the case. Second, AWEC's position is untenable on this topic for the same reason as its position on Issue 27 (PTC carryforwards). It seeks to make adjustment for things that may or may not happen in 2025, and rate base is established as of the end of 2024.

Issue 27 - Production Tax Credits

a. PGE's adjusted amount of PTCs is the appropriate amount of PTC carryforwards to include in rate base.

PGE requests $35.7 million in accumulated deferred income taxes associated with Production Tax Credit (PTC) carryforwards forecasted for December 31, 2024, when PGE's rate base for purposes this rate case is established. No party disputes this request except for AWEC.

AWEC proposes to remove the entirety of PGE's PTC carryforward balance. AWEC's proposal is based upon applying an unprincipled and results-oriented methodology. The facts are uncontested. AWEC does not dispute PGE's forecast of $35.7 million PTCs by the end of 2024.[173] Nor does AWEC dispute that PGE's rate base is set based on 2024, not 2025, balances. In fact, in establishing rate base, AWEC uses a completely different time period, proposing to determine the property included in rate base based upon an average of monthly average beginning in January 2024, a full twelve months prior to PGE's rate effective date. AWEC's

[173] PGE/2400, Batzler-Meeks/21.

proposed rate base treatment for property is in complete contradiction to its proposal for PTC carryforwards.

AWEC's Opening Brief on this topic is a series of non-sequiturs. First, AWEC claims that the PTC carryforwards should be removed because the PTC carryforward balance has been materially decreasing.[174] No one disputes this fact. PGE's initial filing in this rate case included an estimated $89.1 million in PTC carryforwards that has since been reduced to $35.7 million.[175] But a declining balance does not justify eliminating the PTC carryforwards all together as AWEC proposes. Neither AWEC nor any party disputes that at the end of 2024, the expected PTC carryforward balance is $35.7 million.

Second, AWEC claims that because the sale of PTCs is considered in the Docket UP 426, it is, according to AWEC "reasonable for PTC carryforwards to be removed from rate base as well."[176] This makes no sense. Docket UP 426 addresses the sales of PTCs but it is undisputed that PGE will not be able to sell all of its PTCs by the end of 2024. Hence, the need to include the expected balance at that time of $35.7 million in PTC carryforwards.

AWEC makes two new alternative proposals that are substantively no different than their primary proposal. First AWEC recommends that if PTC carryforwards are allowed, the Commission should order PGE to not collect any discount for the sale of PTCs "if they are not receiving the corresponding rate base reduction associated with the sales."[177] The predicate of AWEC's argument here is false. When PGE sells PTCs in 2025 it will provide a corresponding reduction in rate base that customers receive when rates are set in the future. As PGE has

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[174] AWEC Opening Br. 37.
[175] PGE/2400, Batzler-Meeks/23.
[176] AWEC Opening Br. 38.
[177] *Id.*

pointed out customers will continue to receive such benefits as PGE sells these PTC. The issue in this rate case is whether customers should receive that benefit now when rates are set based on rate base established as of December 31, 2024. The answer to that question is “no” because what AWEC is proposing is an inconsistent and unprincipled approach that cherry picks PTC sales in 2025 to reduce rate base which is established based on December 31, 2024.

AWEC proposes as a second alternative that the Commission defer the benefit of the PTC carryforward reductions associated with the PTC sales between rate cases. The Commission should reject this alternative. This is just another attempt to stack the deck by selectively allowing tracking and updating when it benefits customers while refusing to permit similar updates to track and update rate base when it would result in increases to rate base.

Issue 28 - Accumulated Deferred Income Tax (ADIT) on Emergency Deferrals

a. It is not appropriate to include an ADIT benefit in base rates for amounts that have been deferred outside of base rates.

The Commission should reject AWEC’s proposal to reduce rate base by $26.1 million for deferred income tax costs associated with PGE’s 2020 emergency wildfire and 2021 ice storm deferral (Wildfire and Ice Storm Deferrals). Amortization of the deferred amounts under the Wildfire and Ice Storm Deferrals were the subject in Docket UE 408. In that docket, all parties reached a stipulation resolving all issues associated with the deferrals and agreed to support amortization of those deferred amounts over a seven-year period. As part of that deferral and amortization process, PGE was forced to absorb all deferred amounts for 2020, which totaled approximately $14.5 million. The Commission approved the stipulation resolving all issues related to the wildfire and storm deferrals in UE 408.

The Commission should reject AWEC's attempt to circumvent the all-parties settlement in UE 408 and the Commission final order resolving all issues relating to these deferrals. AWEC does not dispute that the settlement that was approved by the Commission in Order No. 22-435 resolved "all issues" related to the Wildfire and Ice Storm deferrals. Instead, it claims that because ADIT was not explicitly addressed in the settlement and Commission final order it is reasonable to now address the accumulated deferred income tax associated with the Wildfire and Ice Storm Deferrals. This is not a credible position. The Commission order and settlement resolved all issues related to the Wildfire and Ice Storm Deferrals. That necessarily includes the tax implications associated with the deferrals and associated cost.

An analogy may be helpful. Assume that after the UE 408 settlement and Order No. 22-435 PGE claimed that it missed $40 million in wildfire and ice storm related costs and sought to add those to the deferral and seek recovery. And suppose further PGE made an argument like AWEC's here: those $40 million in cost were not explicitly addressed in the settlement and Commission order so consideration of those costs should not be precluded by the settlement and final order. Everyone would rightly reject that argument. The settlement and Commission order resolved all issues and precludes later raising arguments related to the deferrals and the related costs. For these reasons, AWEC's argument and proposed adjustment should be rejected.

AWEC is simply opportunistically cherry-picking items to reduce rate base. If AWEC were consistent, PGE would also be allowed to include the entire regulatory asset balances for wildfire and storm in rate base. If the Commission were to accept AWEC's proposal, then logically, all regulatory assets should be included in rate base.

I. Grants

Issue 30 - Federal Grants Operations and Maintenance

a. PGE should collect $600,000 for O&M costs associated with the federal Grid Edge Computing Grant.

Staff states in testimony that "Staff commends PGE for the effort put into apply for grants and believes that PGE's customers will benefit from these projects."[178] Staff's recommendation to remove $600,000 for the Grid Edge Computing Grant (Grid Edge) should be rejected because the project and costs are reasonable and prudent.[179] In its Opening Briefing, Staff inappropriately bring up a new argument that "PGE did not provide evidence to show the prudence of the Grid Edge Computing project."[180] Staff inaccurately accuses PGE of "relying on the existence of the grant to justify the investment."[181]

However, PGE did demonstrate the prudence of its investment. As explained through testimony and in PGE's Opening Brief the Grid Edge Computing grant project will offer important grid benefits to customers by allowing real-time information at meters.[182] Access to this information will improve visibility of the electrical system to grid operators. That visibility will allow PGE to anticipate and mitigate the impacts of extreme weather on grid resiliency and detect potential operational problems. Those mitigation and detection capabilities directly benefit customers with the ability to shorten outage times during extreme weather events.[183] The benefits derived from the grant project demonstrate the prudence of

[178] Staff/1100, Peterson/22.
[179] No other party addressed this issue in their opening briefs.
[180] Staff Opening Br. 54.
[181] *Id.*
[182] *See* PGE/2400, Batzler-Meeks/46.
[183] *Id.*

the investment, and Staff offers no support for its assertion that the grant project will not benefit customers.

Furthermore, Staff's assertion that PGE relies on the existence of the grant to justify its investment is misguided. PGE relies on the existence of the grant to show that, by pursuing and accepting the grant, PGE has reduced the amount its customers would have to pay for the project by offsetting a significant portion of the costs of the project through a grant reimbursement. PGE does not apply for federal grants unless projects and activities have been identified by PGE as necessary to support the transformation of the electric system. Specifically, PGE only applied for the Grid Edge Computing grant because it would benefit customers in the ways identified above. The Grid Edge Computing project was under consideration regardless of the available grant funding, so the grant monies received offsets the costs for the project that would likely have appeared in PGE's revenue requirement.[184]

Additionally, Staff offers a one paragraph conclusory assertion that the $600,000 is reimbursable. PGE relies on the arguments in its Opening Brief to disprove that assertion.

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[184] PGE/2400, Batzler-Meeks/46.

J. Rate Spread and Rate Design

Issue 31 – Generation Marginal Cost Study

a. The Commission should approve PGE's proposed generational marginal cost. Staff supports PGE's proposal, as it produces reasonable results, while AWEC's proposed changes fail to account for the complexities of resource planning and market realities.

In its Opening Brief, Staff stated that it recommends no changes to Issue 31 and supports PGE's position that it has agreed to in testimony.[185] Staff does not support AWEC's proposal on these issues. Staff further notes that "the holistic approach and outcome from PGE's marginal cost model seems to produce reasonable results given Staff's current understanding of the Company's cost drivers and long-term strategy."[186]

As Staff notes, AWEC's proposal is entirely self-serving and would increase the marginal capacity cost and decrease marginal energy to the benefit of the select customers it represents. PGE will briefly address AWEC's five proposed changes here.

First, AWEC's proposal to 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 should be rejected. As discussed in PGE's Opening Brief, in taking this position, AWEC ignores changed circumstances, misapplies legacy methodologies, and fails to accurately reflect the value of non-emitting resources. In a non-emitting framework, PGE uses solar and wind as proxy energy resources and battery resource as the proxy capacity resource and therefore PGE's model captures the capacity value of energy and capacity

[185] Staff Opening Br. 54.
[186] Staff Opening Br. 55.

resources and their costs. Therefore, as PGE has noted, it is inappropriate to use a peaking resource to replace a variable resource in PGE's model.

Second, by asking PGE to use firm transmission for all resources assumed in the marginal cost study, AWEC ignores the reality of transmission constraints and oversimplifies the complex interplay between firm and conditional firm transmission in PGE's long-term resource planning.

Third, by asking the Commission to require PGE to use local wind and solar resources when modeling the cost of energy, AWEC's proposal leads to unrealistic capacity and transmission constraints assumptions.

Fourth, the Commission should reject AWEC's request to require PGE to use flat Mid-C prices because PGE's method of shaping Mid-C prices by loss of load probability more accurately reflects the price of market energy when energy purchases are needed.

Fifth, AWEC misunderstands the distinction between capacity and flexibility needs and overlooks that PGE's model already incorporates day-ahead capacity value in flexibility calculations. The Commission should therefore reject AWEC's request to require PGE to not reduce capacity costs of storage resources by their flexibility value

Both Staff and CUB point out that important issues need to be addressed in UE 430 (Investigation into New Load Connection Costs), and PGE agrees. However, PGE does not agree with CUB's characterization of the work in UE 430 and believes CUB's recommendation that the Commission direct PGE to hold workshops is unnecessary in light of the ongoing efforts in UE 430. While CUB has taken issue with PGE requesting additional time to work through these important issues raised in UE 430, PGE is continuing to put significant work toward this important docket.

Issue 32 - Proposed Cap to Customer Class Rate Increases

a. *Staff's proposed rate cap is arbitrary, not supported by analysis, and should be rejected.*

Since PGE thoroughly addressed this issue in its Opening Brief, only additional points from parties' opening briefs will be addressed in this brief. CUB states in its Opening Brief that "CUB recommends the Commission adopt proposed adjustments to PGE's cap to customer class rate increases"[187] but doesn't address Staff's 125% cap-89.4% floor rate cap proposal specifically. AWEC states that establishing caps and floors would be unnecessary and overly stringent, but states if a "high overall increase" is approved, "then caps and floors may be warranted."[188] AWEC suggests the Commission only institute a cap and floor if overall rate increases by 5% or more and that the cap be at least 150% and the floor no more than 50%. This appears to be a new position by AWEC that was not addressed in testimony to explain how AWEC's cap and floor amounts were calculated. PGE is unsure of the reasonableness of AWEC's suggestion but does not think the proposed range warrants the existence of a rate cap and floor for reasons discussed in PGE's Opening Brief.

Staff barely mentions its own 125% cap-89.4% floor rate cap proposal in briefing. As the party that makes the proposal, Staff carries the burden. It is not enough to make generalized statements about a "large increase" as justification for their proposed changes without demonstrating true considerations and evaluation of the impact on customers. Nor should a statement that "the band proposed here is not too dissimilar to the band Staff has proposed in recent electric cases"[189] be considered adequate substitution for evidence and analysis. The Commission should

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[187] CUB's Opening Br. 48-49.
[188] AWEC Opening Br. 42.
[189] Staff/3000, Stevens/10.

reject Staff's complex proposal since without underlying information to evaluate the true nature and broad impacts on customer usage and rates, it is not reasonable to approve a rate cap and floor proposal.

Issue 33 - Customer Impact Offset (CIO)[190]

a. *The Commission should adopt PGE's uncontested proposal for a CIO for Schedules 38, 47, and 49 to 1.5 times the overall price increase.*

PGE's proposal to use a CIO for Schedules 38, 47, and 49 was supported by Staff and no other party opposed it in briefing.[191]

Issue 34 - Residential Basic Charge

a. *Staff is incorrect that an increase in the Residential Basic Charge is not supported by ratemaking concepts of cost causation.*

Staff incorrectly argues in its Opening Brief that a $2 increase in the basic charge is not supported by cost causation principles.[192] The exact opposite is true based on Staff's own 'Short Treatise on Basic Charges.'[193] Staff previously identified in its treatise what should be the components included in the basic charge, such as the meter, meter-reading, billing, the service drop between the local distribution transformer and the meter, and the distribution transformer itself, or at least a minimal share thereof.[194] The record shows that due to ongoing new residential requests and the need for new distribution transformers,[195] the embedded customer

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[190] Although address under Issue 32 in PGE's Position Statement, all CIO items were addressed in Issue 33 in PGE's Opening Brief.
[191] *See* Staff's Opening Br. 56.
[192] CUB opposes an increase in the residential basic charge and instead proposes a 20% punitive disallowance, which PGE addresses later in this brief in Issue 40.
[193] *See* PGE Exhibit 3101, Staff's Response to PGE DR 25. *See also* PGE/3100, Macfarlane-Pleasant/8, footnote 10.
[194] *See* PGE Exhibit 3101, Staff's Response to PGE DR 25. *See also* PGE/3100, Macfarlane-Pleasant/8, footnote 10.
[195] *See* PGE Exhibit 3102 and PGE/3100, Macfarlane-Pleasant/8.

costs demonstrate a basic charge that should be approximately $30; significantly higher than the monthly $15 for single-family and $12 for multi-family that PGE is seeking.[196]

b. Parties' opposition to the residential basic charge should also be rejected as non-persuasive and un-supported by the record.

CUB opposed PGE's Residential Basic Charge proposal and claims that the record does not support "PGE's assessment of the feasibility of this proposal on its low-income customers, or other identified vulnerable customer segments."[197] The record shows otherwise. PGE's testimony demonstrates that not only will PGE's proposal to raise the basic charge and reduce the volumetric charge by 0.25 cent/kWh will help temper winter bill increases and can improve affordability for many low-income customers during high bill season.[198] Moreover, PGE's proposal is particularly beneficial to customers with high energy burden who are just over the income eligibility criteria for PGE's IQBD program.[199] PGE is receptive to Verde's position that an increase in the Basic Charge not be imposed on IQBD participants and is supportive of revising the IQBD program to include a credit for the $2 increase in Residential Basic Charge.

Issue 35 - Load Following Credit

a. Opposition to the existence of the Load Following Credit are discouraging. (Disquieting, concerning, unfortunate, unpropitious, disheartening, troubling, alarming)

PGE's proposal to increase the Load Following Credit was met with opposition by Staff and CUB. Staff is concerned about a lack of convincing arguments of benefits

[196] PGE/3100, Macfarlane-Pleasant/4.
[197] CUB Opening Br. 52.
[198] PGE/3100, Macfarlane-Pleasant/5.
[199] PGE/2000, Macfarlane-Pleasant/7.

provided by Schedule 90 to the system in order to justify an increase in the existing Load Following Credit. Staff also claims that because of the high load factor, Schedule 90 already pays less generation costs than it would otherwise pay. Staff thinks assigning the full flexibility value of a lithium battery to the Load Following Credit is inappropriate since Schedule 90 high load factor is already considered in current rates.[200] PGE does not disagree with Staff that Schedule 90 has a high load factor since that is the reason why Time of Use is not appropriate for Schedule 90.[201]

Not only do Staff and CUB oppose an increase in the Load Following Credit, but they also appear to oppose its continued existence with Staff stating, "given this unjustified benefit, Staff believes that it may even be warranted to entirely eliminate the Load Following Credit."[202] PGE disputes Staff's claims. However, should the Commission agree with Staff and CUB that the Load Following Credit should be eliminated, PGE does not think Staff's Time of Use proposal for Schedule 90 should also be adopted for reasons discussed in Issue 36.

Issue 36 - Time of Use for Schedule 90

a. Time of Use (TOU) rates do not align the costs of providing energy to Schedule 90 customers as Staff alleges, so Staff's proposal should be rejected.

Staff is demanding PGE apply TOU rates to Schedule 90 customers; a position that both PGE and AWEC oppose. Staff claims that a TOU rate is needed to address its concerns, which are 1). that the cost to procure or generate energy for these customers varies throughout the day, and 2). "this *may* become increasingly relevant as the region transitions away from emitting resources and towards

[200] Staff's Opening Br. 59.
[201] Discussed further in Issue 36.
[202] Staff's Opening Br. 59, referencing Staff/2400, Dloughy/22.

intermittent resources."[203] Staff's proposal is not supported by the evidence. As PGE explained in testimony and in PGE's Opening Brief, Schedule 90 customers typically have an extremely high monthly load factor of between 90-100%, so PGE can plan for their load in the long-term power planning and does not incur higher costs to serve this load in high-demand periods because the actual load is unlikely to exceed the forecast. Moreover, it is preferable to incentivize Schedule 90 customers to maintain a flat load rather than trying to adjust their usage since PGE can plan for their usage in long-term power planning, which benefits all customers by reducing PGE's short-term power cost needs, which are based on fluctuating loads day-to-day or seasonally.[204]

Staff argues that the intent of TOU rate is "not necessarily to be cost neutral, but rather to align cost recovery with the time-varying nature of electricity generation costs" and "incentive customers to move their consumption off the highest cost periods."[205] However, Staff never disputes the fact that Schedule 90 customers have a high load factor, do not have load to shift, and will not be motivated by TOU to shift their load. In fact, Staff even admits on the previous page of its brief "Schedule 90's load profile decreases the amount of flexibility reserves needed to be purchased by the utility," which "in turn lowers rates for all customers" while describing "Schedule 90's high load factor" "its flat load"[206] Which begs the question, if the higher generation costs Staff wants to avoid are connected to peak loads, what is the purpose of TOU rates if there is no load to shift?

"The basis for the assumption that TOU rates will reduce peak load is the assumption that customers will change their consumption patterns in response to

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[203] Staff's Opening Br. 59, referencing Staff/2400, Dloughy/22.
[204] PGE/3100, Macfarlane-Pleasant/12.
[205] Staff's Opening Br. 59.
[206] *See* Staff's Opening Br. 58 discussing Staff opposition to Load Following Credit for Schedule 90.

price signals due to the price elasticity of demand."[207] Since Schedule 90 customers will not change their consumption patterns and it would actually be detrimental to other customers if they do, the Commission should reject Staff's TOU request.

[207] "Guidance for Utilities Commissions on Time of Use Rates: A Shared Perspective from Consumer and Clean Energy Advocates TOU Paper 7.17.17" https://publicinterestnetwork.org/wp-content/uploads/2017/07/TOU-Paper-7.17.17.pdf.

K. Transportation Line Extension Allowance

Issue 37 - Permanent Offering

a. The Commission Should adopt PGE's proposed permanent TLEA

PGE's proposal seeks to make permanent the TLEA by transitioning from a pilot to a long-term solution.[208] Staff objects to PGE's proposal because: 1) PGE has "yet to show a cost-benefit analysis that justifies making the pilot program permanent;" 2) concerns that the TLEA would not adequately protect other customers from cost shifts; and 3) PGE should utilize UM 2033 because the barrier to participation in that docket is lower.[209]

The first point, as discussed in detail in PGE's Opening Brief, is incorrect. PGE disputes the inputs and analysis that Staff utilized to develop its benefit-cost-ratio (BCR) and has provided cost-benefit analyses showing a favorable outcome. Only under PGE's most conservative analysis is the BCR less than 1, and then only barely.[210] Staff restates that some of PGE's analysis shows that incremental revenue from new customers "nearly or just break[s] even with the marginal cost to serve."[211]

The second point flows from the first. It too, is incorrect. When utilizing PGE's updated analysis, any potential subsidy in the form of a cost shift would be no more than $22,000 annually, in total.[212] The terms of the TLEA contain claw-back provisions, mitigating risk to customers.[213] And finally, the most conservative BCR analysis fails to include the benefits that other customers will likely see through the higher level of engagement with the fleet customer, ensuring a more

[208] PGE's Opening Br. 117.
[209] Staff's Opening Br. 60:12-17, 22, and 61:1–2.
[210] PGE 3100, Macfarlane-Pleasant/22 at 10–12.
[211] Staff's Opening Br. 60:14-15.
[212] PGE's Opening Br. 118.
[213] *Id.*

planful approach to grid impacts and participation in future commercial programs.[214] The downside risk to customers is minor and the upside, under PGE's forecast, significant.

Finally, Staff's suggestion to shoehorn all costs associated with transportation electrification into UM 2033 should be rejected. PGE still disagrees with the suggestion that all costs or expenditures that touch on electrification of transportation *necessarily* need to be included in the TE Planning process, even if that process has a lower barrier for participation for stakeholder groups than in a general rate case.[215] Line extension allowances incentivize customers to connect to the utility system by stimulating growth in electricity usage[216] It should not matter that the line extension in this case is for customers to use electric vehicles, it could be for any other high-energy utilization appliance, in a large part because the TLEA should not be a cost at all – that is the purpose of performing the BCR analysis.[217] While the original TLEA proposal was eventually analyzed in Advice No. 21-09 (Docket No. ADV 1261) under the TE investment framework, in that same docket, Staff recognized that at least some TE costs, those associated with residential transformer upgrades due to EV load, were appropriately covered in PGE's change to its Tariff Rule I.[218] Further, while the TE Plan is supposed to "integrate the electric company's transportation electrification actions into one document,"[219] the TLEA is neither a program or measure, but a recognition that the stimulation of

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[214] PGE's Opening Br. 120.
[215] PGE notes that the CUB participated in UM 2033 as well this case. Staff calls out NWEC as "an important voice for TE planning in Oregon" as not intervening in this rate case; however, NWEC participated in at least the last two PGE general rate cases, UE 394 and 416, during which TE issues were discussed.
[216] PGE's Opening Br. 117.
[217] *Id.*; *See also* Staff Report for January 26, 2021, Public Meeting (Item No. RA 4), 13.
[218] Staff Report for the June 1, 2021 Regular Public Meeting, Item RA2, 6–7.
[219] OAR 860-087-0020 (1) and (3)(b),(c).

consumption through electrification, regardless of end use, is good for customers. In this case, support of transportation electrification is a correlative effect of the TLEA, through a long-term solution that integrates EVs and their load into PGE's base business.

Staff rejects PGE's concerns regarding uncertainty and the inadequacy of the TE Plan budgeting process by suggesting that we continue to utilize the very process PGE raised concerns over.[220] PGE's point is not that it cannot continue to utilize that process, it is that the proposed TLEA would be a more efficient and effective process, providing customers with more certainty and stability, avoiding backlogs caused by lapses in funding, and ensuring flexibility.[221]

The Commission should approve PGE's TLEA as proposed.

[220] Staff's Opening Br. 61:17–24 and 62:1.
[221] PGE's Opening Br. at 119.

L. Transportation Electrification and PGE Fleet

Issue 38 (a) - Docket UM 1811 – TE Pilot Project Costs

a. *Staff's proposed permanent rate base disallowance of $353 thousand of prudently incurred costs should be rejected, as their interpretation of language in the Order 19-385 stipulation is at odds with the plain meaning of the language.*

Staff's Opening Brief on its disagreement with PGE on this matter adds nothing new and provides no support for its argument that PGE's position is "without merit" other than to state that "[t]he list of indirect costs in Order No. 19-385 is specific and [does] not apply to the costs at issue."[222] Staff provides no rationale for this claim and it is clear that Staff and PGE are looking at the same words on the page and coming to different conclusions. Staff's position should be rejected.

PGE has argued, and continues to argue, that the language in Order No. 19-385, cited by Staff in its Opening Brief, gives examples of indirect costs and is non-specific as to the universe of indirect costs that would not be includable in the maximum allowable costs subject to the limit in the stipulation.[223] The language from the stipulation, quoted by Staff, contains two elements that argue against Staff's interpretation. The first is that what is included in the maximum allowable costs is clear: direct O&M costs and overnight capital costs. The second is that indirect costs are a variety of costs, some of which may be related to overnight capital costs, some of which are mentioned. Interpretation of the language is helped by a footnote, which indicates that parties to the stipulation understood that certain indirect costs should not be included in the cost caps because of the difficulty in calculating them, and did not list all such costs, likely depending on the phrase

[222] Staff's Opening Br. 62:19–20.
[223] PGE's Opening Br. 121.

"[i]ndirect costs *such as*."[224] Staff, on the other hand, reads the language of the footnote and the language in the quoted passage providing examples of such costs as being a "specific" list of indirect costs.[225] Notably, Staff does not provide the rationale for its viewpoint.

Finally, Staff takes issue with PGE's claim that overhead costs are difficult to forecast by suggesting that such difficult to forecast costs should have been included in a TE Plan and Budget – perhaps ignoring that the current TE Plan and Budget process was not adopted by rule until several years after the agreed upon stipulation in UM 1811 was entered.[226] PGE is not "avoiding the limitations put on TE spending on the ground it is too hard to predict costs" but asking for rate treatment of costs that were prudently incurred pursuant to and consistent with a stipulated agreement approved by the Commission.

PGE's position is the correct one, one that is consistent with the stipulation, and the Commission should so recognize.

Issue 38 (b) - Electric Island Rate Base

a. Staff's recommended $1.4 million permanent disallowance for Electric Island should be rejected because it relitigates settled issues.

Staff recommends disallowance of the Electric Island expenditures because the customer subsidy provided "was not pursuant to any tariff and other ratepayers should not be required to bear the costs of these pre-tariff expenditures."[227] PGE does not challenge the facts behind how PGE entered into a contract with a customer prior to establishing an approved tariff in September 2020. That fact

[224] PGE Opening Br. 121 *citing* Order No. 19-385, amended stipulation, Paragraph 10 and fn. 3.
[225] Staff's Opening Br. 62:19–20.
[226] *Id.* 63:1–4.
[227] *Id.* 63:17–19.

pattern was well detailed by Staff in early 2021.[228] However, since that time, at the Commission's direction, Staff investigated the Electric Island matter, concluded that the investment would result in ratepayer benefits and recommended approval of PGE's filing that adopted Schedule 53.[229] The matter of PGE's actions in late 2020, the subsequent investigation and Staff led process and the discussion in UE 394 are settled matters. Staff had an opportunity to object to the criticized subsidy on the grounds that PGE lacked an appropriate tariff but, instead, after investigation recommended approval, which the Commission gave. Any appropriateness of the expenditures was settled by adoption of Order No. 21-195.

The Commission should not reopen the matter of investments in Electric Island on the basis that PGE lacked a tariff. Staff's proposal to disallow $1.4 million in investments should be rejected.

Issue 38 (c) - TE Database Rate Base

a. *Staff's position that PGE already has corporate databases that can house TE data misses the point of PGE's investment in the TE database.*

Staff recommends disallowance of $177,000 in investments in the TE Database project because "PGE already had a corporate database that can house TE data" and because "PGE has not been able to demonstrate . . . a substantial marginal benefit" from the new system.[230]

PGE disagrees with both of these assertions. Regarding the first assertion, the issue is not whether PGE has a database that can house data. PGE agrees with that truism: PGE has computer systems that can house data. The issue is

[228] *In the Matter of Portland Gen. Elec. Co., Advice No. 21-03 (ADV 1239), Schedule 53, Nonresidential Heavy-Duty Elec. Vehicle Charging Program*, UE 389, OPUC Order No. 21-083, Appendix A, 4–7.
[229] PGE's Opening Br. 124.
[230] Staff's Opening Br. 64.

significantly more nuanced: whether the data PGE houses can be effectively collected, integrated and analyzed in a manner that supports ongoing efforts of transportation electrification. The answer from Staff in PGE's last filed TE Plan, in UM 2033, was that the systems that PGE had in place were not sufficient. The TE database project was and is directly responsive to Staff's exhortation that PGE improve its TE data analysis capabilities. In that docket, Staff chastised PGE for lacking an "empirical understanding of its own EV market" and noted that "stronger analysis of this data [is] important for future use in rate design EV program development, resource planning, and distribution planning." Staff further spoke of the "public good" of data collection and its dissemination to the public and policy makers.[231] Therefore, PGE strongly questions Staff's claim that it has been able to analyze the raw data in PGE's corporate database "without the need for a specialized database," and the claim that there is not a substantial marginal benefit.[232]

The OPUC's administrative rules in Division 87 emphasize the importance of data analysis for improving TE programs and informing future planning[233] and implicitly require efficient and accurate data management. PGE's efforts in this area lean into this administrative direction.

Finally, Staff suggests that the capital expenditure on the database was never approved by the Commission or communicated to Staff.[234] This is not quite accurate. While not called out in the TE Plan as a separate investment, PGE allocated funding for the database from money budgeted for capital expenditures

[231] PGE's Opening Br. 126.
[232] Staff/3200, Shierman/9 at 6–7; Staff's Opening Br. 64:6–8.
[233] PGE's Opening Br. 127.
[234] Staff's Opening Br. 63:23–24.

under Portfolio Support in PGE's Final 2023-2025 TE Budget. This budget item was not questioned by Staff or stakeholders, and was approved by the Commission.[235]

The Commission should reject Staff's proposed disallowance.

Issue 38 (d) - TE Project Line Extension Rate Base 2019-2023

b. Staff fails to demonstrate imprudence or unreasonableness in PGE's actions regarding PGE's LEAs. Staff's proposed reduction should be rejected.

Staff's recommendation that $1.1 million be disallowed for supposed "excessive" capital expenditures should be rejected. Staff's Opening Brief repeats a number of technical objections from Staff's testimony regarding PGE's LEAs, including disagreements over capacity factors, load forecasting, forecasting methods and timing of forecasts, but ultimately fails to provide any clear rationale as to why the expenditures themselves were not prudent, limply suggesting at the end of its argument that "[a]n adjustment is required to ensure other customers are not inappropriately subsidizing customers with EV chargers."[236]

The LEAs in question were for customer projects from 2019 to 2023, were reasonable, and were calculated on and consistent with the best information and knowledge available at the time—meeting the standard for prudency. Dramatic changes have occurred in charger utilization by use case since 2011 and the market continues to mature. PGE has revised the TE-related LEA methodology as directed by Staff in PGE's last filed TE Plan. When evaluating prudence, the Commission examines the objective reasonableness of the utility's actions. The points made in Staff's Opening Brief merely restate Staff's disagreements with PGE's methodology and do not get to the reasonableness of PGE's actions based on information that was

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[235] PGE's Opening Br. 127.
[236] Staff's Opening Br. 66:2–3.

available or that could reasonably have been available at the time of the action. Nothing in Staff's testimony or brief suggests otherwise.

The Commission should reject Staff's recommendation.

Issue 38 (e) - TE Plan and Development Expense

a. TE planning and program development O&M expenses are not expenses that should be included in a utility TE Plan.

PGE and Staff have a fundamental disagreement about costs that must be included in a TE Plan. PGE does not disagree with Staff on its assertion that the Division 87 administrative rules mandate that PGE include "all planned expenditures that support TE in their TE Budgets."[237] PGE contends, however, that certain TE-related costs must properly be considered instead in a general rate case as part of the Company's base business activities. These include costs to support overall development and administration of the TE Plan, costs that support TE-related work and investments that are not attributable to specific programs or measures within the TE Plan, and O&M on those investments.[238]

Expenses related to creation of the TE Plan, evaluation of and administration of the TE Plan, development and management of PGE's TE-related workforce and other TE-related support work that is not specific to a program, measure or infrastructure investment should find no place in the TE Plan or Budget.[239] The fact, as Staff asserts, that "it is necessary to update [PGE's budget] before TE expenditures exceed the budget" is irrelevant if the expenditures themselves should not be included in the budget.[240] The expenditures should not be included in the TE

[237] Staff's Opening Br. 66:15–16.
[238] PGE's Opening Br. 130–131.
[239] *Id.* at 131.
[240] Staff's Opening Br. 66:21–22.

Plan because they are distinct from the types of programs, measures, investments and activities that require acceptance in the Plan.

The Commission should reject Staff's recommendation.

Issue 39 (a) - PGE Fleet EV Purchases

a. *Fleet purchases should not be included in PGE's TE Plan or Budget*

Staff's Opening Brief recommends rejecting costs of electrifying PGE's own fleet largely on the basis that 1) PGE failed to include the costs as part of a TE budget subject to approval by the Commission and 2) that PGE has to show benefits to customers that are commensurate with the cost for the electrification.

PGE's Opening Brief provides extensive rationale why PGE's fleet management and EV purchasing should not be costs that must necessarily be included in the TE Plan and budget process. PGE stands on that briefing.[241] PGE's Opening Brief also provides significant argument regarding the "net EV premium," or the difference in costs between electrified and non-electrified vehicles. PGE stands on that briefing.[242]

The Commission should reject Staff's recommended downward adjustment of $24.4 million in fleet investments.

Issue 39 (b) - PGE EV Charger Rate Base

a. *There should be no adjustments to PGE's rate base for investments in fleet EV chargers*

Of all of Staff's objections to PGE's investments in the TE area, its objection to this issue is the most surprising. For the last two decades, the State of Oregon has been

[241] PGE's Opening Br. 132–133, 134–135.
[242] *Id.* 133–134.

telling its citizens and the electric utilities that there was a need for immediate and significant action to address global warming.[243] During that same period, the State has been exhorting,[244] coaxing,[245] directing,[246] regulating,[247] encouraging,[248] incentivizing,[249] commanding,[250] controlling,[251] instructing,[252] and enjoining[253] utilities to move faster to decarbonize, serve customers with increasing amounts of renewable and greenhouse gas-free electricity, and electrify end uses. There has been a loud, continuous, and sometimes frantic drum beat of local, state, and federal policies, too many to count or repeat here, regarding GHGs in the last twenty years.

As noted in PGE's Opening Brief, PGE's investments in electric vehicles and the charging infrastructure to support them is aligned with PGE's long-term operational decarbonization goals, which are also in alignment with the state's policies, directions and requirements for GHG emissions reduction and conversion of the transportation sector to electric vehicles.[254] Staff's position appears to be that regardless of the literal climate emergency and decades of policy direction, this one

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[243] *Oregon Strategy for Greenhouse Gas Reductions*, Governor's Advisory Group on Global Warming, State of Oregon, December 2004.
[244] ORS 468A.205, adopting goals for greenhouse gas reduction (2007).
[245] Among other things, inclusion within integrated resource planning of costs to comply with greenhouse gas regulations and need to be consistent with the long-run public interest as expressed in Oregon and federal energy policies. In the Matter of Pub. Util. Comm'n of Or. Investigation into Integrated Resource Planning Requirements, UM 1056, Order No. 07-002. (Jan. 8, 2007).
[246] ORS 469A.052, adoption of the large utility renewable portfolio standard (2007 and 2016).
[247] ORS 757.524, adoption of emissions performance standard (2009).
[248] H.B. 4126, Reg. Sess. (Or. 2014), creating the voluntary renewable energy tariff (2014).
[249] H.B. 2193, Reg. Sess. (Or. 2015), accelerating adoption of energy storage systems (2015).
[250] ORS 757.518 (2016), eliminating coal from allocations of electricity (2016).
[251] ORS 469A.210, directing a specific percentage resources be small scale renewable (2007 and 2016).
[252] ORS 757.357, requiring electric utilities to submit transportation electrification plans (2016).
[253] ORS 469A.400 to .475, requiring reduction of greenhouse gas emissions associated with serving customers (2021).
[254] PGE's Opening Br. 133–134; ORS 283.401, adopting goals for sales and ownership of electric vehicles (2019).

doesn't apply to utilities.[255] PGE should slow down,[256] we should wait for requirements to apply fully before initiating a change,[257] PGE should not prepare for a low-carbon future,[258] and utilities may only invest if there is a short term net savings, regardless of any long-term impact due to global warming.[259] Perhaps without being mindful of its position, Staff has fallen into the very economic trap that has stymied investment in, and progress on, GHG reducing activities for the last two decades while the policy front has continued to drive, and in some cases, force change.

PGE's long-term fleet plans, including the investments in the necessary associated charging infrastructure, represent six years' worth of charging investment at PGE workplace and operation centers which have been included in prior rate case black box settlements.[260] The investments are a reflection of PGE's careful consideration of costs, weighed against the long-term benefits of EV adoption. PGE is not unaware of the economic considerations and reasonably modified its previous goal for 100% of adoption of electric vehicles by 2025 to better utilize vehicles until their end-lifecycle state.[261] No additional adjustment should be made in the investments for PGE's gradual build-out of EV charging infrastructure.

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[255] Staff's Opening Br. 68:1 "the executive order was to state agencies, not electric companies."
[256] Staff's Opening Br. 68:11–12 "the cost of private chargers suggests PGE has been imprudently electrifying too quickly."
[257] Staff's Opening Br. 69:6–7 "the Advanced Clean Trucks and Advanced Clean Cars II rules . . . do not fully go into effect until 2035."
[258] Staff's Opening Br. 68:16–19 "With respect to the opportunity for specific learnings. . . PGE has not shared any with Staff that PGE couldn't otherwise learn from participating in customers' fleet efforts."
[259] Staff's Opening Br. 68:3–5, 14–15 "PGE's fleet electrification poses a long-term cost to customers without commensurate benefit . . . PGE has presented no evidence of net savings from early compliance."
[260] PGE/2800, Powell-Clark-Mead/20–25.
[261] *Id*. 24–25.

Issue 39 (c) - PGE EV Charger Maintenance O&M Expense

a. No adjustments should be made to PGE's proposed amount for EV Field Operations O&M for charging maintenance.

Staff provides no argument in its Opening Brief regarding this issue other than to assert that PGE "imprudently acquired private fleet chargers."[262] Thus, PGE stands on its Opening Briefing of this issue.[263]

[262] Staff's Opening Br. 69:2–3.
[263] PGE's Opening Br. 136–137.

M. Customer Service Issues

Issue 40 - Punitive Disallowance for Bill Design

a. CUB's proposed disallowance for PGE's bill design is arbitrary, unsupported and should be rejected.

CUB recommends at 20% punitive disallowance of $8,451,698, to be applied against the monthly customer basic charge where billing costs are collected, based on CUB's complaints about bill design and "the ability to show how rates have changed."[264]

As PGE stated in its Opening Brief, PGE disagrees with CUB's unsubstantiated claims about what most customers want to see on their monthly bill and reiterates that the proposed disallowance is arbitrary and as the Commission correctly pointed out, "[w]e cannot impose a disallowance based on a generalized and unsubstantiated assertion… ."[265] PGE's bills comply with all Oregon Administrative Rules (OARs) and no allegation has been made asserting a rule violation. There is no basis for CUB's punitive disallowance.

This does not mean PGE is not planning to collect and review input to determine different ways to provide transparency to customers. PGE has agreed to a simplified breakdown of basic charges, volumetric charges and percentage fees, with necessary adjustments for specific rate schedules. PGE plans to gather feedback on this prototype from CUB and customer focus groups in early 2025. This is the appropriate way to evaluate bill design and determine if changes are necessary. PGE's Opening Brief addresses Issue 64's other concerns with specific proposed changes to bills.

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[264] CUB Opening Br. 53-54, under Issue 34(b).

[265] *In the Matter of Portland Gen. Elec. Co. Request for a Gen. Rate Revision*, UE 197, Order No. 09-020 (Jan. 22, 2009), rejecting CUB's proposed overall one percent reduction to PGE's revenue requirement.

Issue 63 - Public Versions of Price Forecasts

a. Proposals for additional public version filings of rate increases prior to final approval are unnecessary and should not be required.

PGE's Opening Brief on Issue 63 fully addressed this issue.

Issue 64 - Average Cost of Electricity in cents/kwh on Bills

a. PGE should not be required to put a value for the average cost of electricity on the customers' bill.

PGEs Opening Brief on Issue 64 fully addressed this issue.

Issue 65 - Plan for Communicating Rate Changes to Residential Customers

PGE should not be required to file a plan for communicating the rate change as it is already prescribed in OAR 860-022-0017(2). Any proposal to require notifications beyond what is in the Commission's regulations would more appropriately be addressed in a different docket if the intention is to adopt new generally applicable requirements.

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

Issue 43 - Income Qualified Bill Discount (IQBD), Discount Level and Structure

a. No changes should be made to PGE Schedule 18 – Income Qualified Bill Discount (IQBD) Program discount levels or structure in this proceeding.

PGE does not recommend making changes in this docket to PGE's Schedule 18 IQBD Program discount levels and structure as argued by Verde. Staff does not support Verde's proposal to modify the IQBD discount tiers in this proceeding.[266] As set out in PGE's Opening Brief, PGE separately proposed a change to IQBD via an Advice filing[267] to create a new bill discount option for master-metered facilities, and the appropriate forum to consider broader changes to Schedule 18 should occur in the UM 2211 docket.

PGE has committed to engage Staff, stakeholders and the CBIAG to inform its approach. PGE also has committed to substantively engage in efforts to scope and develop proposals to enhance customer protections in the upcoming winter heating season in Docket UM 2211.[268] To the extent Parties' proposals – including changes to discount levels, eligibility, and enrollment – warrant further assessment, UM 2211's Rates workstream is the appropriate venue.

PGE addressed the validity and reasonableness of the current IQBD in its Opening Brief.

Issue 44 - IQBD, Post-Enrollment Verification

a. No changes should be made to the post-enrollment verification of the IQBD program.

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[266] Staff Opening Br. 70.

[267] See *PGE Advice No. 24-19, Schedule 18, Income Qualified Bill Discount*, ADV 1645.

[268] PGE/2300, Sheeran-Latu-Newman/12.

No changes to the IQBD post-enrollment verification (PEV) process should be made in this docket. PGE separately proposed a change to current PEV practices via a tariff update filed on September 27, 2024,[269] which would implement a more focused approach to PEV in accordance with an Energy Burden Assessment recommendation. PGE has committed to engage Staff, stakeholders and the Community Benefits Impact Advisory Group (CBIAG) to inform its approach. However, because IQBD enrollment relies on self-attestation, verification is an important program element that should not be paused or eliminated.

Issue 45 and Issue 46 - Disconnection & Arrearage Policies

a. No changes should be made to PGE's disconnection and arrearage policies either generally or as it relates to IQBD customers.

As discussed in PGE's Opening Brief, the appropriate forum to address policies related to disconnection issues is the UM 2211 docket. Staff also recommends no order be made by the Commission for specific action related to its disconnection policies in this docket. Staff plans to address policies related to disconnection in UM 2211 to place any appropriate protections in place for the upcoming heating season.

Staff raises unsupported and conclusory concerns that because PGE asserted that past due allowances and disconnections are consistent with historical trends pre-COVID, Staff believes PGE is not concerned with discernable effects on residential arrears in light of significant investment in low-income assistance related to HB 2475.[270] However, the "significant investment" noted by Staff appears inclusive of both increased COVID-era financial assistance, which was offered for a limited two-year period and contributed to the discontinuity in

[269] See ADV 1645.
[270] Staff Opening Br. 71.

disconnection and arrearage data during and after the pandemic, and the growing cost of IQBD. As a bill discount percentage, IQBD was always understood to be a longer-term policy change that would require time and continuity to have a discernible impact on arrearage levels and disconnections of its participants.

The reality is that PGE's IQBD program was just initially approved by the Commission in April 2022, meaning the new program likely had little ability to materially impact 2022 and potentially even 2023 disconnection and arrearage levels, with any effects likely overshadowed by residual effects of the COVID disconnection moratorium, which was in place until July 2021. Then, less than a year ago, IQBD discounts were expanded in January 2024.[271] This January 2024 expansion created the highest monthly bill discount of 60% provided to those with 0-5% of the Oregon State Median Income (SMI), more than doubling the previously applicable discount at this tier.[272] Because this was just approved in January 2024 as part of the stipulation in UE 416,[273] there is not yet sufficient time for implementation and data to evaluate discernable effects on residential arrears. Arrearage levels based on these programs will be able to be evaluated in the future as the impacts over time are able to be measured. Staff and Verde do not acknowledge these timing factors as affecting the sufficiency of the data to be able to evaluate impacts on arrearage and disconnection.

Finally, Staff's expectation that implementation of HB 2475 should have led to a different paradigm in customer arrears by now is an oversimplification of the scope of the suite of policy and program actions adopted. Disconnection policies and arrearage levels are linked to each other and to other factors that affect customer

[271] PGE/1200, Sheeran - Wise/9.
[272] *Id*.
[273] UE 416, Order No. 23-386 (Oct 30, 2023).

bills, billing policies, and programs. Adopted policies that temporarily reduce disconnections (such as severe weather moratorium days) may ultimately have minimal impact on overall disconnection rates and in fact contribute to higher average arrears amounts yet may be fulfilling their purpose of protecting the most vulnerable customers when assistance is most critical. PGE continues to view UM 2211 as the most appropriate venue to assess these trends and to delve into further detail on data gaps to achieve better understanding of the effectiveness and gaps of current policies.

Issue 47 - Bill Due Date for Residential Customers

a. No change should be adopted in this docket to PGE's bill due date for residential customers.

PGE's Opening Brief sets out why it is inappropriate to change bill due dates, and that CUB fails to support its recommendation to require PGE to eliminate late fees for all residential customers.

Verde appears to argue that the AR 653 rulemaking proceedings should be disregarded as to PGE, asserting that PGE should be held to a different standard than other utilities.[274] In AR 653, the Commission appropriately decided to extend the disconnection notification window in lieu of changes to bill due dates after listening to utilities discuss logistical challenges as well as unintended consequences for customers' ability to obtain energy assistance by revising due dates instead of disconnection timeframes.[275] The record in this docket does not support a change from what the Commission determined in AR 653.

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[274] *Id.*
[275] See *In the Matter of Revisions to Division 21 Rules to Strengthen Protections Concerning Disconnections*, Docket AR 653.

Issue 48 - Additional Reporting

a. *UM 2211 is the proper forum to determine reporting requirements, effective stakeholder or customer engagement and outreach, and data sharing. The Commission should not require additional reporting or stakeholder or customer engagement through this proceeding.*

In PGE's Opening Brief, PGE describes the basis for addressing the issues raised in the UM 2211 data workstream due to the type of reporting, tracking, information and outreach being requested for all utilities, instead of unilaterally requiring a single utility here to pursue numerous recommendations separately from multiple parties on this issue. UM 2211 is the appropriate docket to determine consistently the parameters for these requests.

Issue 49 - Rate Design Change Related to Basic Charge Increase

[PGE addresses this in Issue 34]

Issue 50 - Schedule 118 – IQBD Allocation Methodology

a. *No party supports AWEC's proposal to change Schedule 118 cost recovery allocation.*

Schedule 118 recovers costs for the Schedule 18 IQBD program. AWEC seeks to alter the cost recovery allocation method from a per site to a per customer cap and to recover based on revenue rather than load. CUB filed a one-sentence recommendation that the Commission should "reject AWEC's proposal to move to revenue-based allocation for IQBD cost recovery."[276] Staff expressed concern that under AWEC's method, costs would shift from large customers to the residential class.[277] PGE is concerned that AWEC's proposal to move from a per site to a per

[276] CUB's Opening Br. 62.
[277] Staff's Opening Br. 74.

customer cap would be logistically impractical and require PGE to adopt a new system configuration and maintenance if applied to all large customers.[278]

Issue 51 - Ductless Heat Pump Program

a. No new requirements for a ductless heat pump program or information sharing should be adopted in this docket.

As mentioned in PGE's Opening Brief, PGE does not currently offer a ductless heat pump pilot. Staff did not support any modifications or adjustments to energy efficiency measures offered by PGE but did make request the Commission direct PGE to share low-income customer data. CUB did not take a position on this issue in its Opening Brief.

PGE does not support Staff's recommendation that PGE "be directed to share data" with the Energy Trust of Oregon on IQBD participant heating type "including enrollment data" as part of PGE's monthly data sharing with ETO. It is not appropriate to address this request in this docket. PGE recently submitted comments on PGE's work towards sharing data with ETO in UM 2211.[279] Further, PGE continues to work with Staff and ETO to discuss data sharing, including what level of data sharing is permissible due to Oregon's Consumer Privacy Act.[280]

Issue 52 - Weatherization Efforts and Services

PGE fully addresses this issue in its Opening Brief but reiterates that no new requirements for weatherization services should be adopted in this docket.

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[278] PGE/1200, Sheeran-Wise/14. (For purposes of AWEC's proposal, "per customer" requires aggregating usage at a commercial parent entity level, which PGE does not currently use in its billing model.)
[279] *See In the Matter of Pub. Util. Comm'n of Or. Implementation of HB 2475*, Docket UM 2211, PGE Comments on Low-Income Assistance Programs Workshop (Oct. 23, 2024).
[280] SB 619, Reg. Sess. (Or. 2023).

Issue 53 - Energy Efficiency a Condition of Rate Increase

PGE addresses this issue in its Opening Brief but reiterates that it should not be required to center energy efficiency for low-income households in its rate schedules as a condition of any rate increase.

Issue 54 - Rate Case "Walk Throughs"

Suggestions that PGE should be directed to perform rate case walk-throughs in this docket are not appropriate and should be rejected. No testimony was provided by the parties to demonstrate an absence of these walk throughs or a need for PGE to be ordered to perform these discussions. PGE disputes any inference that PGE failed to conduct outreach and perform walkthroughs with members of the environmental justice communities. Beginning in March 2024 and monthly thereafter, PGE discussed this rate review in CBIAG meetings, performed walk throughs of the various parts of PGE's direct testimony, and provided information on how stakeholders could submit public comments with the Commission, participate in the Commission-led public comment hearing, and provided information on the deadline to intervene and seek intervenor funding.

Very early in this rate review process, PGE conducted a walk through with Staff, CUB, and AWEC to discuss the drivers of PGE's rate review filing and breakdown what information could be found in the separate pieces of PGE's opening testimony. In March 2024, PGE reached out to intervenors from UE 416, CEP and CAPO, and held separate but similar walk throughs of the rate case filing.

O. Other Issues

Issue 55 (a) - Rate Revision Requirements

a. AWEC's proposal to reject PGE's rate revision on ORS 757.210(1)(a) grounds should be rejected.

PGE has provided sufficient evidence that the proposed rates are just and reasonable—AWEC just doesn't prefer the form of the evidence provided by PGE and has been reluctant to undertake the level of review necessary to properly evaluate it. Oregon ratemaking specifically allows for a future test year to be based on budgeted expenditures or actual expenditures. The Commission set out these two foundational options for establishing a test year in a 1987 Commission order: "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."[281] AWEC is aware of this option between a test year based on budgeted expenditures or actual expenditures as this principle was quoted in AWEC Opening Brief.[282]

The Commission has discussed other additional options available to use when setting a test year: "...the selection of an appropriate test year to establish rates is a frequently litigated issue in regulatory proceedings. While we have favored the use of future test years in recent cases for electric utilities, we have also used historical test years, two-year test periods, and a combination of future and prior test periods in various cases over the years. The selection of the test period is simply one of

[281] *In re Pac. Nw. Bell,* Order No. 87-406, 212 P.U.R.4th 1.

[282] AWEC Opening Br. 51, footnote 222 quoting *In re Pac. Nw. Bell*, Order No. 87-406, and citing 2001 Ore. PUC LEXIS 415, *22 (Or. P.U.C. August 31, 2001) citing *In re US WEST Commc'ns.*, Order No. 00-191; *In re PacifiCorp*, Order No. 00-091.

several issues that must be resolved to determine the utility's rates."[283] No party opposed the future test year or argued a historical test year should have been used.

PGE's proposed 2025 revenue requirement is based on a 2024 Budget built from the revenue requirement established in UE 416, then applies distinct escalators for each cost element and adjusts for known and measurable changes. PGE provided significant amounts of detailed support showing how the 2025 Test Year revenue requirement was built as described. At the outset of the case, our opening testimony provided highlights for the biggest capital projects. For example, PGE Exhibit 500 highlighted the DPF project and the Constables and Seaside Batteries, and PGE Exhibit 400 provided a breakdown of the swaths of TD projects. Further, PGE Exhibit 402 provided descriptions for the 20 TD projects over $10M, and Exhibit 403C provided PJFs for those projects.

In addition, PGE provided the complete list of all capital projects and their dollar amounts in the workpaper titled "GRC Plant Additions Detail" provided in Exhibit 200. In response to this, Staff asked for further information on all capital projects in Data Request No. 231, to which PGE provided PJFs for all projects greater than $3M, as well as Capital Review Group Packets to provide context on the capital approval process for these projects.

Then on May 1, PGE provided the May 1 capital update, which provided an updated project list and dollar amounts for each project, and updated our response to Staff DR 231 with updated project justification forms.

Speaking specifically to Production and the DPF project, Staff asked 16 DRs related to DSG and the DPF project, and PGE responded to those providing lots of

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[283] *In the Matter of the Revised Tariff Schedules Applicable to Electric Service Filed by PacifiCorp*., UE 111, Order No. 00-091 (Feb. 14 2000) (denying ICNU's motion to dismiss based upon the utility's use of a historic test year), with internal cite to *see*, e.g., *In the Matter of the Application of US WEST Commc'ns., Inc., for an Increase in Revenues*, Order No. 97-171.1.

detail regarding that project. There were also many, many DRs regarding Seaside and Constable, which PGE responded to as well.

In addition, for capital projects, PGE provided parties the following:

1) Over 2,000 pages of detailed project documentation on capital projects covering over 92 percent of our Capital ask;
2) Two years' worth of project planning and project prioritization documentation including Officer Review and Votes;
3) 2024 Year to date cost variance analysis and updates;
4) 5-year Capital Planning Roadmaps; and
5) Detailed documentation of PGE's capital planning processes, controls, and prioritization methods.

For non-labor O&M 2025 Test Year Forecasts, PGE provided parties the following:

1) Line-item level workpaper details for all historical and projected O&M test year expense amounts;
2) 2024 Year to Date actual to budget variance analysis through August; and
3) Over 350 individual data request responses justifying test-year forecast amounts.

However, AWEC wants all of this information and data to be ignored and reset the standard for rate cases to be based only on actual historical costs.

Counter to AWEC's assertions, actual costs or pro formas built from actual costs are not required to establish a revenue requirement. Actual costs can be additional evidence and information to evaluate the reasonableness of a request, but it is not the only appropriate starting point for building a test year revenue requirement. PGE's extensive underlying information is another way to present evidence to evaluate and determine just and reasonable rates. While AWEC's

preference for what they deem to be a "traditional pro forma study" is noted, it is not a legal standard upon which to reject a rate request.

Here, the 2024 Budget is updated and adjusted to reflect the most accurate information available. This is because the budget's underlying components, and the other relevant information used was the most up-to-date information to determine the revenue requirement setting just and reasonable rates. AWEC and other parties were provided this information to evaluate. And as this proceeding continued, they were also provided eight months of comparative actual costs to evaluate PGE's request. AWEC chose to only consider 2023 actual costs, even when other information was available, and ignore all other updated and relevant information.

If AWEC or any other party had concerns that a budget built from the recently stipulated revenue requirement in UE 416 significantly deviated from actual figures, they had ample opportunity to request comparative data between current year actuals and the current year budget. Given that opening testimony was not due until July, parties could have accessed up to six months of actual data to assess whether PGE's budgetary projections substantially diverged from reality prior to submitting any testimony. Yet no party, including AWEC, made such a request.

PGE has provided sufficient information to support its proposed rate increase. What remains is for the Commission to evaluate each of the issues based upon the evidence in the record from PGE and the other parties and determine if any adjustments are appropriate. This is highlighted by Staff's narrow position on this issue essentially restricting rejecting the rate filing to PGE's requested increase in O&M expense: "Staff notes that for the most part, no party has challenged the prudence of the pre-January 1, 2025, capital investment PGE seeks to include in

rate base. Accordingly, Staff does not think a dismissal of the portion of PGE's rate increase related to adding capital investment is warranted."[284]

PGE has met the requirements of ORS 757.210(1)(a) by providing sufficient evidence that the proposed rates are fair, just and reasonable.

b. PGE maintains that a 2024 budget built from the stipulated revenue requirement approved by Commission Order 23-386 is a valid and reasonable starting point for a 2025 future test year in this rate revision.

Despite AWEC being an active party in the 2024 general rate case, Docket UE 416, and a signatory to numerous stipulations including one setting PGE's revenue requirement for 2024, AWEC now argues that because the 2024 Budget was not approved by the Commission, "the reasonableness of the 2024 Budget in no way proves the reasonableness of the 2025 budget used in this case."[285] AWEC wants the Commission to disregard that the 2024 Budget was set based on prices approved in Commission Order No. 23-386. AWEC was a signatory and sponsor of joint testimony in UE 416 stating "that rates consistent with this Stipulation would be fair, just, and reasonable."[286]

The 2024 Budget was built based off of 2024 needs that were part of a thorough rate review proceeding where parties, including AWEC, testified that the agreed to revenue requirement would result in just and reasonable rates. Furthermore, in direct contravention of AWEC's argument, the reasonableness of the 2024 Budget is demonstrated through the 8+4 provided in surrebuttal testimony that shows the consistency of the 2024 actual spend to date is in alignment with the 2024 Budget. Even Staff questions the strength of AWEC's arguments by stating it does not think "a dismissal of the portion of PGE's rate

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[284] Staff Opening Br. 75-76.
[285] AWEC/300, Mullins/7.
[286] *See* UE 416, Stipulating Parties/400, Muldoon-Jenks-Mullins-Bieber-Chriss-McCloy-Springer-Kermode-Ferchland/15 at 5-8 (Oct 6, 2023).

increase related to adding capital investment is warranted" since "no party has challenged the prudence of the pre-January 1, 2025, capital investment PGE seeks to include in rate base."[287]

Issue 55 (b) - Rate Revision Requirements

a. *Verde's claims that PGE's request for a rate increase is an improper collateral attack on the resolution in UE 416 should be rejected.*

PGE has addressed why Verde's argument should fail on legal and factual grounds in PGE's Opening Brief and does not wish to duplicate prior points. PGE does note that Staff agrees that any "claim this rate case is an inappropriate collateral attack on revenue requirement issues decided in a previous case is meritless."[288]

Issue 56 - Rate Effective Date

a. *CUB's proposal to move PGE's rate effective date of this case is confiscatory and unlawful.*

Staff's Opening Brief did not include argument on Issue 56. Verde noted that it would not brief Issue 56, but that it supports CUB's proposal.[289] In its Opening Brief, CUB urges the Commission to delay the rate effective date for rates approved by the Commission in this proceeding to mid-June 2025.[290] CUB argues its proposal would "move the rate effective date out of the winter,"[291] and "avoid[] large winter increases,"[292] an outcome which CUB identified throughout the proceeding as a high priority. CUB notes that the "Commission could also accomplish [avoiding rate

[287] Staff Opening Br. 76.
[288] Staff Opening Br. 76.
[289] Verde Opening Br. 1.
[290] CUB Opening Br. 1.
[291] *Id.*
[292] *Id.* at 41.

increases in winter] by choosing any rate effective date after April 1, 2025."[293] Neither Staff, Verde, nor CUB mention that PGE proposed an option for an April 1, 2025[294] effective date in testimony:

> As an alternative to a January 1, 2025 rate effective date, PGE is open to the Commission allowing PGE the full recovery of its approved 2025 test year revenue requirement to be spread from April 1, 2025 to December 31, 2025. This will result in a decrease in base rates to the annualized 2025 revenue requirement come January 1, 2026.[295]

PGE's alternative effective date would address parties' stated concerns about rate increases that take effect in the winter months. Under PGE's proposal, the Company would charge rates sufficient to meet its revenue requirement for 2025 over the nine months between April and December 2025 rather than the twelve months between January and December 2025. This would result in rates becoming effective at a somewhat higher level in April than they otherwise would have if effective on January 1, 2025, and rates would decrease at the end of calendar year 2025 (the end of the nine-month 2025 collection period). Starting on January 1, 2026, rates would return to the lower levels that would have applied if PGE's rates became effective on January 1, 2025.[296]

This outcome, however, is not what CUB has in mind by proposing a delayed effective date. Rather, CUB would have PGE entirely forego collection of rates that have been determined to be fair and reasonable by the Commission in this proceeding – for at least six months. CUB does not propose carrying charges that could make up for the foregone revenue, and blithely asserts that losing over a half-year's rate recovery would result in nothing more than "a little" lag.[297] In fact, the

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[293] CUB Opening Br. 41 at fn.147.
[294] PGE/2100, Ferchland-Liddle/8.
[295] PGE/2200, Liddle-Kliever/23.
[296] *Id.*
[297] CUB/400, Jenks/27.

record demonstrates that if the rate effective date is set at July 1, 2025, PGE would experience under-recovery of approximately $95 million.[298]

CUB links its proposal to the in-service date of the Seaside project, which PGE plans to have in service in June 2025.[299] CUB argues that PGE should only be authorized to collect revenues to pay for its prudent investments in Seaside after it goes in service if PGE also foregoes the approximately $95 million in revenues caused by CUB's proposed delay in the rate effective date.[300] Notably, CUB did not contest the prudence of PGE's investment in the Seaside project.[301]

CUB's position is that the Commission should delay the rate effective date for over six months and thus impose a $95 million "incentive to change how PGE manages the timing of rate changes."[302] Only if the Commission executes the substantial disallowance associated with delaying the rate effective date would CUB support cost recovery for the approximately six months in 2025 that the Seaside project will be used and useful and providing valuable services to customers (from Seaside's expected mid-June in-service date through December 31, 2025).[303] As PGE testified, if Seaside cost recovery is delayed, PGE would either need to file another rate case promptly to ensure timely cost recovery or adjust the utilization of the Seaside plant to reflect the fact that its costs are not being recovered from customers.[304]

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[298] PGE/2200, Liddle-Kliever/21. Delaying the rate effective date to April 1, 2025 would result in a cost recovery shortfall of approximately $48 million, which under PGE's alternative proposal would be recovered in rates from April 1, 2025 to December 31, 2025. *Id.*; PGE/2100, Ferchland-Liddle/8-9.
[299] CUB Opening Br. 41.
[300] *Id.*
[301] *See* PGE/1700, Powell-Clark/4 (summarizing parties' positions on capital additions).
[302] CUB Opening Br. 41-42.
[303] *Id.* at 41 ("To be clear, CUB's proposal to add Seaside to rates in June … is conditioned on a delay to the rate increase proposed for January.").
[304] PGE/2200, Liddle-Kliever/20.

Under either option, CUB asks the Commission permanently disallow recovery of a substantial amount of prudently incurred costs. CUB would have PGE recover, for half of 2025, rates that are not "sufficient to yield a reasonable return on the value of the property used at the time it is being used to render the service."[305] Such rates are "unjust, unreasonable and confiscatory, and their enforcement deprives the public utility company of its property in violation of the Fourteenth Amendment."[306] When the U.S. Supreme Court reached this conclusion in its *Bluefield* decision over one hundred years ago, this principle was "so well settled by numerous decisions of this Court that citation of the cases is scarcely necessary."[307]

These principles have also been long-established in Oregon law. The denial of timely recovery of a utility's prudently incurred costs, without compensation for that delay, "would require [the] Commission to disregard its statutory duty to balance the interests of customers and the utility," and is thus inconsistent with Oregon law.[308] When considering whether rates are fair and reasonable, it is an established regulatory principle that rates should appropriately match the benefits received by customers.[309] If the Commission adopts CUB's proposal, customers will benefit from the Constable Battery[310] and over $730 million of other rate base[311]

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[305] *Bluefield Water Works & Improvement Co. v. Pub. Serv. Comm'n*, 262 U.S. 679, 690 (1923).
[306] *Id.*
[307] *Id.*
[308] *See In the Matter of the Application of Portland Gen. Elec. Co. for an Investigation into Least Cost Plan Plant Retirement, et al.*, Docket Nos. UM 989 *et al.*, Order No. 08-487 at 70-71 (Sept. 30, 2008) (The Commission acknowledged the "time value of money" to the utility, stating that delayed recovery will actually cause PGE to under-recover its investment, and concluded that proposals to delay recovery without interest "would require [the] Commission to disregard its statutory duty to balance the interests of customers and the utility.").
[309] ORS 757.259(2)(e).
[310] Expected in-service December 31, 2024.
[311] PGE Work Paper, Exhibit Support_2025, Summary of Approved Results

that will be serving customers for over six months in 2025, without paying PGE's costs of delivering those services.

Oregon law specifically addresses the permissible limits on delaying collection of utility revenues. ORS 757.215 limits the suspension of rates for a period of nine months beyond the time the rate would otherwise go into effect,[312] thus prohibiting extended deferral of the effective date of rates, whether as an "incentive" for certain utility behavior, a tool to reduce the impact of rate changes, or any other purpose. While the Commission has broad discretion in setting rates, it may not misinterpret or misapply the law, as CUB's proposal would require.[313]

For these reasons, adoption of CUB's proposal would be contrary to law. PGE's alternative proposal, however, is lawful ***and*** would achieve CUB's claimed objective. Specifically, PGE's proposal would avoid a rate increase taking effect in the winter months, while still allowing PGE to lawfully collect the revenues to cover the costs of providing service. If the Commission seeks a rate effective date later than January 1, 2025, the Company urges the Commission to adopt PGE's alternative proposal, with an April 1, 2025 effective date, rather than the illegal, confiscatory delay proposed by CUB.

Issue 57 - Rate Caps

a. *Staff withdrew its rate cap proposal and the Commission should reject CUB's arguments for resurrecting it.*

In its Opening Brief, Staff withdrew its earlier proposal of "a three percent cap on any increase to the residential class," noting that "it is not clear how this proposal

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[312] In this proceeding, PGE filed tariff sheets with an effective date of April 1, 2024, and thus ORS 757.215 does not permit a suspension of rates beyond January 1, 2025. *See* Docket No. UE 435, Order No. 24-061 (Mar. 5, 2024).
[313] *See Wah Chang v. Pub. Util. Comm'n*, 256 Or App 151, 162 (2013).

… for a hard three percent cap … will impact other rate classes."[314] Verde stated its support for Staff's three percent cap but did not brief the issue.[315] CUB stated its support for Staff's proposal, briefing it under Issue 32.[316]

CUB argues that Staff's proposed "hard three percent cap" could be "adopted together"[317] with CUB's rate cap of ten percent (or seven percent above CPI). CUB does not explain how a three percent cap on residential rate increases can be squared with a ten percent cap on residential rate increases. The Commission's adoption of both proposals would not work from a mathematical perspective, much less on legal or policy grounds. In practice, a proposal to implement two different rate caps for the same rate class is inherently incoherent.

CUB recognizes that Staff's proposal attempts to address "rate shock through rate spread."[318] PGE has no quarrel with the concept that rate spread, and rate design are appropriate vehicles for the Commission to address rate shock concerns. These regulatory tools enable the Commission to adjust the impacts rate changes will have on various customer classes without improperly manipulating calculation of a utility's revenue requirement. In this case, however, Staff concedes that its proposal is not sufficiently developed for implementation, primarily because no party (including Staff, CUB, and Verde) has established how it would "impact other rate classes."[319]

CUB argues both that Staff's proposal "addresses this case only,"[320] and that Staff is "calling for a reexamination of current rate spread" as a policy matter.[321]

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[314] Staff Opening Br. 76.
[315] Verde Opening Br. 1.
[316] CUB Opening Br. 49-50.
[317] *Id.* at 50.
[318] CUB Opening Br. 50
[319] Staff Opening Br. 76.
[320] CUB Opening Br. 50.
[321] *Id.*

CUB neither clarifies how Staff's proposed rate cap would be implemented in this proceeding, nor how the now-withdrawn three percent rate cap should shape future policy considerations. Staff acknowledged that its rate cap proposal is not ready for consideration for approval in this proceeding. PGE believes the proposal is unsound as a matter of both law and policy and recommends that it be rejected here and not included in ongoing policy dockets.

b. The legal arguments in the CUB and Verde Opening Briefs do not overcome the constitutional and statutory impediments to CUB's rate cap proposal.

As detailed in PGE's Opening Brief, CUB's rate cap proposal is at odds with Oregon law. CUB and Verde[322] cite several precedents and other sources in their legal arguments in favor of the rate cap proposal, but their arguments go well beyond what their cited authorities support. Overall, CUB and Verde brush off constitutional and statutory limits on ratemaking that, legally, cannot be ignored.

First, CUB selectively quotes ORS 756.040(1), correctly pointing out the Commission's duty to protect customers,[323] but omitting the other half of the subsection, which requires that the "[C]ommission shall balance the interests" of utilities and consumers "in establishing fair and reasonable rates."[324] The statute goes on to instruct the Commission in how to conduct the balancing exercise that leads to fair and reasonable rates:

> 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 … 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

[322] After reporting the withdrawal of its rate cap proposal, Staff stated it "believes it is appropriate for the Commission to use any of the available mechanisms to mitigate the impacts of an increase on customers." Staff Opening Brief at 76. Staff did not brief the issues regarding the legality of other parties' proposed rate mitigation mechanisms.
[323] CUB Opening Br. 23.
[324] ORS 756.040(1).

> integrity of the utility, allowing the utility to maintain its credit and attract capital.[325]

The legislature's instructions for establishing fair and reasonable rates are critical for two reasons. First, the statutory language memorializes the guardrails that prevent the Commission from setting rates that violate the U.S. Constitution's limits on setting rates at confiscatory levels.[326]

Second, the legislative instructions provide a touchstone for the Commission's consideration of claims made by various parties in rate proceedings. For example, CUB argues that the statute demands that the Commission "affirmatively guarantee … customers receive fair, reasonable, and affordable service."[327] "Fair and reasonable" are terms included in the statutory directive. While "affordable" is not, that does not mean the Commission lacks the ability to evaluate and address affordability. The statutory language neither requires nor prohibits a policy objective of "affordability." From a policy perspective, achieving "affordability" through the ratemaking process does not obviate the necessity for rates to "provide adequate revenue both for operating expenses of the public utility" and "for capital costs of the utility, with a return to the equity holder" that meets the standards defined in ORS 756.040(1)(a) and (b).

CUB also argues that the ORS 756.040 prohibition on "unjust and unreasonable exactions may be defined as charging customers rates which they cannot afford."[328] The term "*may be*" defined as CUB suggests, but Oregon law does not define it that way. Rather, the guardrails established in ORS 756.040 to balance the customer's interests and the utility's ability to recover its costs apply to

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[325] ORS 756.040(1).
[326] *See Fed. Power Comm'n v. Hope Nat. Gas Co.*, 320 U.S. 591 (1944); *Bluefield Waterworks & Improvement Co. v. Pub. Serv. Comm'n of W. Va.*, 262 U.S. 679 (1923).
[327] CUB Opening Br. 23.
[328] *Id*. at 23-24.

preventing "unjust and unreasonable exactions" in the same way they apply to setting "fair and reasonable rates."[329] The Commission order CUB cites for its proposition actually says exactly that: the Commission must balance customer and utility interests as instructed by Oregon law.[330] There is no doubt that the Commission has significant flexibility in the exercise of its broad ratemaking authority, but CUB implies that the Commission has endorsed using its authority to obtain preferred "end results" without regard to statutory requirements.[331]

CUB's citation on this point refers to a Commission order finding that it is the "end result of an order of a regulatory authority which determines the question of its validity and not the process by which the authority reached the result."[332] True enough, but the instructions for determining revenue requirement and sufficient cost recovery for regulated utilities in ORS 756.040 are not "process" points; rather, they are the substantive steps required for the Commission to determine that the "end result" of its decisions are fair and reasonable, and within statutory and constitutional limits.

CUB also claims that ratemaking has an "income transfer function," that the "principle of the ability to pay" may be used to justify rates, and that "the core

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[329] *See Gearhart v. Pub. Util. Comm'n of Or.*, 356 Ore. 216 (2014) ("[T]he PUC must 'balance the interests of the utility investor and the consumer.' ORS 756.040(1). As part of that balance, the legislature directed the PUC to, on the one hand, 'protect [public utility] customers, and the public generally, from unjust and unreasonable exactions and practices 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 fair return to the equity holder.' *Id.*").
[330] *See* CUB Opening Br. 24; UM 989 *et al.*, Order No. 08-487, at 5 (Sept. 30, 2008) ("The Commission sets rates within a reasonable range that protects the competing interests of the utility and its customers. To protect customers, the rates must be set at a level sufficiently low to avoid unjust and unreasonable exactions. To protect the utility investor, the rates must provide sufficient revenue not only for operating expenses, but also for the capital costs of the business. If the rates 'do not afford sufficient compensation, the State has taken the use of the utility property without paying just compensation.'") (footnote omitted).
[331] *Id.* at 27.
[332] *Id.* (quoting *In the Matter of the Revised Tariff Schedules in Oregon filed by PacifiCorp, dba Pacific Power and Light Company*, Docket No. UE 94, Order No. 96-175 at 7 (July 10, 1996)).

concept that every consumer 'has an inherent right' to enjoy electric utility service" is the basis of the Commission's statutory mission.[333] CUB cites James C. Bonbright's treatise, "Principles of Public Utility Rates," for these propositions. CUB appears to take the wrong lessons from the treatise. First, Bonbright does not endorse the notion of an "inherent right" to utility service, but rather uses the term in quoting an observer with whom he clearly disagrees.[334]

Second, Bonbright notes that "ability-to-pay considerations" may influence ratemaking but "lack … a recognized, official standing in the law of rate making," and concludes that:

> In the regulation of the rates of private utility companies, which are held entitled to an opportunity to enjoy a "fair return" regardless of the income status of their customers, the influence of ability-to-pay factors is most potent in the design of the rate schedules as distinct from the rate levels.[335]

As noted above, PGE agrees with the notion that issues regarding customers' relative ability to pay may influence rate design or rate spread. CUB is incorrect, however, that such considerations somehow override the balancing of interests required by ORS 756.040 and the years of precedent applying it.

Verde urges that the "Commission should begin to re-legislate its rate-making function" because the Commission has "a statutory duty to center affordability."[336] PGE recognizes the legislature's consideration of differential energy burdens, and its authorization for the Commission to "address the

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[333] *Id.* at 24.
[334] Bonbright recalls that, "some years ago, … an official of the New York Farm Grange, … insisted that every farmer in the state of New York, however remote and isolated, 'has an inherent right' to enjoy electric utility service on payment of the same rates paid by city dwellers. This contention, he felt, did not need to be proved valid on 'economic' grounds since it followed from 'the very nature of the public utility concept.' Against such 'natural rights' points of view, scientific approaches to rate-making problems are impotent weapons." James C. Bonbright, PRINCIPLES OF PUBLIC UTILITY RATES 62 (1961).
[335] *Id.* at 61.
[336] Verde Opening Br. 6.

mitigation of energy burdens through bill reduction measures or programs."[337] As the record reflects, PGE works with its customers, and advocates like Verde and CUB, to implement programs to assist in targeted mitigations like bill reduction measures and programs. However, targeted efforts to address affordability for the most vulnerable customers should not conflict with the basic statutory directive for ratemaking—the balancing of interests conducted pursuant to the standards enunciated in ORS 756.040.

If CUB's rate cap proposal were implemented, when rates exceed CUB's proposed threshold, the utility would not be authorized to collect rates necessary to meet its revenue requirement—regardless of evidence demonstrating that the utility's costs were prudently incurred, were necessary to meet state policy requirements, or were needed to ensure safe and reliable service. In this way, CUB's rate cap mechanism would override the balancing of interests required by Oregon law and the constitutional requirements that underpin it.

The constitutional and statutory limits on ratemaking would be swept aside in favor of the imposition of a price control mechanism that ultimately harms not just the utility, but all its customers. The Commission has held that "[i]n establishing fair and reasonable rates under ORS 756.040, we balance the interests of the utility investor and customers by ensuring that the rates provide adequate revenue both for operating expenses and for capital costs of the utility."[338] The denial of timely recovery of a utility's prudently incurred costs through imposition of a rate cap, without compensation for that delay, "would require [the] Commission to

[337] Verde Opening Br. at 5 (quoting ORS 757.695).
[338] *In the Matter of PacifiCorp, dba Pac. Power, Request for a Gen. Rate Revision*, Docket No. UE 374, Order No. 20-473, at 6 (Dec. 18, 2020).

disregard its statutory duty to balance the interests of customers and the utility."[339] That "end result" is plainly inconsistent with Oregon law.

c. CUB's proposed rate cap to address affordability should be rejected on policy grounds.

Yet, even were the Commission to consider it on the merits as a way to address affordability, CUB's rate cap proposal should be rejected on policy grounds. Despite CUB's arguments to the contrary, PGE does care about affordability and has taken steps to mitigate rate impacts for customers. Aware of the struggles customers were facing during the 2020 COVID-19 pandemic, PGE delayed a planned 2020 rate case filing.[340] PGE also initiated suspensions of non-payment disconnections and late fees at the start of the pandemic to provide rapid relief to customers.[341] PGE chose to include more disconnection moratorium days during winter events than what is required in OAR 860-021-0407 and currently offers more payment extensions and arrangement options than what is required in Commission regulations.[342] During prior periods of government shutdown, PGE offered payment flexibility and assistance to customers impacted by the shutdown.

PGE took these steps due to concerns about affordability for the most vulnerable customers. That concern was evident when PGE was the first large, investor-owned utility in Oregon to adopt an income qualified bill discount (IQBD) program, which currently has the highest enrollment level for IQBD programs of all Commission regulated utilities. That focus on the most vulnerable customers is absent in the general rate cap proposals that CUB supports. Instead, CUB makes generalized statements without evidentiary support that rate caps should apply

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[339] Docket Nos. UM 989 *et al.*, Order No. 08-487 at 70-71.
[340] Docket UE 394.
[341] *See* Docket UM 2114 that paused late fees.
[342] OAR 860-0210-0415. PGE works to offer more time for payment extensions and works to offer payment arrangements that accommodate lower payment levels.

without evaluating the varying capacity of customers to afford rate increases beyond the proposed caps. CUB's rate cap ignores the objective of the Energy Affordability Act, HB 2475, to help the most at-risk customers. A more targeted and nuanced approach to affordability that aims to assist those most in need is better and more efficient than a broad general rate cap. At no point does CUB evaluate the impacts of their proposal on other rate classes. Nor does CUB truly address the likely consequences to all customers from forced rate caps.

While examples of the use of mandated rate caps is sparse, in recent instances where rate caps were implemented to promote affordability, results can ultimately harm customers. For example, in November of 2022, the Canadian province of Nova Scotia enacted a bill that overrode the rate setting process by limiting the increase in non-fuel rates and limited the allowed ROE and equity level. The result was a two-notch downgrade due to what S&P cited as "political interference" because the bill was seen as an "unprecedented political intervention in the regulatory construct."[343] Credit downgrades can create a cascade of financial challenges that ultimately result in reduced service quality and limited ability to invest in future improvements—which negatively impact all customers.

Issue 58 - Rate Shock

In its Opening Brief, Staff limited its discussion of Issue 58 to a restatement of its position statement, in which Staff stated it "supports mechanisms that can mitigate rate pressure" and "address the rising rates and energy insecurity faced by increasing numbers of Oregon utility customers."[344] Staff did not take a position in

[343] S&P Global Rating, https://disclosure.spglobal.com/ratings/en/regulatory/article/-/view/sourceId/12570922

[344] *See* Staff Opening Br. 76-77.

its Opening Brief on CUB's rate shock proposal.[345] Verde did not brief Issue 58, but stated its support for CUB's proposal.[346] CUB's Opening Brief addressed the rate shock proposals it made in testimony. As noted below, CUB stated it is "open to the idea" of a policy docket examining rate shock issues,[347] but only if its proposals are adopted "on an interim basis … while [the Commission] considers a broader policy proceeding."[348]

a. PGE's proposal for an April 1, 2025 effective date mitigates any "urgent" rate shock issues identified by parties in this docket.

CUB argues that its rate shock proposals require urgent consideration in this proceeding due to concerns regarding the impact of a rate increase going into effect on January 1, 2025, during the winter heating season. As detailed in its discussion of Issue 56, and in testimony, PGE proposes an alternative effective date for 2025 rates of April 1, 2025.[349] A delay of the effective date of PGE's rate increase addresses the central challenge associated with rate shock, as the Commission described it in its recent order in the NW Natural gas rate case:

> The concept of rate shock [defined by our prior orders as a "sudden substantial rate increases"] is focused on whether customers for whom the change is material have enough time to adjust their financial arrangements or seek assistance in order to avoid disconnection for non-payment or unacceptable compensating changes to their other costs.[350]

While the Commission focuses on the timing of a rate increase, CUB emphasizes seasonality, and the increased risk of customer disruption during winter, a season marked by relatively higher residential electricity demand.

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[345] Staff Opening Br. 76-77. In its Position Statement, Staff also did not support or oppose the CUB proposal, but said that CUB's proposal is "deserving of dialogue." Staff Position Statement at 23 (Oct. 8, 2024).
[346] Verde Opening Br. 1.
[347] CUB Opening Br. 77.
[348] *Id.* at 78.
[349] PGE/2100, Ferchland-Liddle/8; PGE/2200, Liddle-Kliever/23.
[350] *In the Matter of Nw. Nat. Gas Co., dba NW Nat., Request for a Gen. Rate Revision*, Docket No. UG 490, Order No. 24-359 at 47 (Oct. 25, 2024) (footnote omitted) (hereinafter Order No. 24-359).

PGE's proposal mitigates both concerns. PGE customers would have three months of 2025 before newly adopted rates go into effect to "adjust their financial arrangements or seek assistance."[351] And those three months constitute the final months of the winter heating season, after which demand moderates during the spring shoulder months. PGE recognizes that its proposal, because it delays but does not eliminate PGE's recovery of approved rates, will result in slightly higher bills in April (and through December 2025) than if the rates become effective on January 1, 2025. Nevertheless, the proposal still offers a longer period for customers to prepare for increases or seek bill assistance, and the elevated rates would go into effect in a lower usage season.

b. It is inappropriate to adopt CUB's "one-size fits all" rate shock proposals in an individual utility's general rate case.

As PGE has argued throughout this proceeding, and the Commission recognized in its recent Order No. 24-359, CUB's proposal raises major legal and policy questions.[352] CUB urges that the Commission adopt a one-size-fits-all rate shock approach that applies to all regulated utilities in each of their various rate proceedings.[353] The Commission noted that the CUB proposal highlights the question of whether to "focus our strategies for rate shock on those most likely to experience the worst outcomes" rather than on "the timing of rate changes for one customer class,"[354] as CUB proposes. Due to the breadth of CUB's proposal, those policy determinations have ramifications for all utilities in every industry regulated by the Commission. Making a far-reaching policy determination would be best

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[351] *See* UG 490, Order No. 24-359 at 47.
[352] UG 490, Order No. 24-359 at 46-47.
[353] *See* CUB Opening Br. 75; CUB/100, Jenks/79.
[354] UG 490, Order No. 24-359 at 47.

undertaken in targeted proceedings where all affected parties are represented rather than in any single utility's general rate case.

Moreover, PGE urges that the Commission focus its attention in considering such proposals on those most burdened by a rate increase. PGE supports efforts to assist low-income customers facing energy insecurity and is taking proactive steps to mitigate the energy burden experienced by its customers. To this end, PGE has presented its proposed Income Qualified Bill Discount (IQBD) expansion in pending tariff Advice No. 24-19.[355] The Commission's UM 2211 docket is considering numerous proposals for implementing HB 2475,[356] and is open to the involvement of a broad range of interested stakeholders.[357] As discussed in PGE's Opening Brief, the Company supports resolving rate shock policy questions in existing proceedings, or potentially in a separate policy docket.

In addition, PGE recommends that the Commission avoid basing its determination to impose unprecedented rate shock mechanisms on whether the parties to a rate case have settled their revenue requirement disputes. While it made sense in the NW Natural rate case not to disturb a largely stipulated revenue requirement,[358] PGE urges that its revenue requirement disputes be resolved based on their merits (*e.g.,* do they represent prudently incurred costs PGE should be authorized to recover) rather than on whether cost recovery or ROE should be reduced so that CUB's rate caps or other mechanisms can be implemented in this case.

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[355] *See* Docket No. ADV 1645, Advice No. 24-19, Schedule 18, Income Qualified Bill Discount (Sept. 27, 2024).

[356] *See In the Matter of Pub. Util. Comm'n of Or., Implementation of House Bill 2475*, Docket No. UM 2211.

[357] PGE is cognizant of and agrees with the Commission encouraging "parties to work on solutions that target the most energy burdened and vulnerable customers in docket UM 2211." Order No. 24-359 at 47.

[358] *See Id.*

In its Opening Brief, CUB stated it is "open to the idea" of a policy docket examining rate shock issues.[359] CUB continues to advocate for adoption of its proposal "on an interim basis to address the current rate shock while [the Commission] considers a broader policy proceeding."[360] PGE notes that CUB links "current rate shock" to implementation of increased rates in the 2025 winter heating season.[361] As discussed above, PGE's April effective date proposal effectively mitigates the "current" risk identified by CUB.

PGE also notes that "interim" adoption of CUB's proposal would not be a simple matter. If the Commission adjusts PGE's revenue requirement or ROE as suggested by CUB based on its proposal, that will be a difficult decision to unwind if the Commission takes a different policy approach after considering issues in a separate proceeding. Moreover, adoption of CUB's proposal would have downstream impacts in future power cost adjustment and wildfire mitigation cost recovery proceedings. PGE requests the Commission decline to inject CUB's novel and disruptive proposal into PGE's other cost recovery proceedings on an interim basis.

c. The Commission should not approve CUB's rate shock proposal in this proceeding.

CUB's legal arguments in its Opening Brief address, but do not overcome, the fact that its rate shock mechanism is inconsistent with Oregon law and Commission precedent. CUB argues that Order No. 24-359 supports the conclusion that the Commission's authority "includes the flexibility to address rate shock within the constitutional and statutory boundaries on its discretion to set rates."[362] PGE does not dispute this broad statement, but the specific tools CUB includes in its proposal

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[359] CUB Opening Br. 77.
[360] *Id.* at 78.
[361] *Id.* at 29 ("If the Commission decides to raise rates in January, then customers will again struggle to pay their winter heating bills after a significant rate hike.").
[362] *Id.* at 75.

go beyond the exercise of the Commission's "flexibility to set revenue requirement within a reasonable range"[363] and would not satisfy the standards required by Oregon law.

1. <u>The delay in rate recovery CUB proposes would unlawfully deny PGE an opportunity to recover its revenue requirement.</u>

CUB's first rate shock recommendation is to delay recovery of prudently incurred costs. CUB advocates for limiting rate increases by delaying implementation of rates sufficient for a utility to recover its revenue requirement—thus capping rates for indeterminate periods of time.[364] CUB argues that "[d]eferring or phasing in the rate increase" may occur "with or without carrying charges."[365] Recommending a "delay" without a carrying charge, however, would unlawfully prevent PGE from recovering just and reasonable rates because the Company's rates would be unreasonably low during the delay period.[366]

In Order No. 24-359, the Commission found that "[w]ith reasoned explanation, we have the flexibility to conclude that rates remain just and reasonable even if their delayed collection is projected to result in lower revenues, because we have the flexibility to set revenue requirement within a reasonable range that anticipates the delay."[367] In this case, as PGE discussed in its testimony and Opening Brief, the effective date delay contemplated by CUB would cause PGE to experience under-recovery of approximately $95 million.[368]

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[363] UG 490, Order No. 24-359, at 46.
[364] CUB/100, Jenks/76.
[365] *Id.* at 72.
[366] Docket Nos. UM 989 *et al.*, Order No. 08-487 at 70-71 (Sept. 30, 2008) ("[Proposals to delay cost recovery without interest] would require [the] Commission to disregard its statutory duty to balance the interests of customers and the utility.'").
[367] UG 490, Order No. 24-359 at 46.
[368] PGE/2200, Liddle-Kliever/21. Delaying the rate effective date to April 1, 2025 would result in a cost recovery shortfall of approximately $48 million, which under PGE's alternative proposal would be recovered in rates from April 1, 2025 to December 31, 2025. *Id.*

Critically, this $95 million disallowance would not be justified by evidence that the underlying costs were imprudently incurred. There is no record evidence supporting this amount and type of reduction to PGE's revenue requirement. For this reason, disallowing its cost recovery would not result in a "revenue requirement within a reasonable range that anticipates the delay."[369] Rather, CUB argues for a disallowance without any regard to the nature of the costs being disallowed, which goes well beyond permissible flexibility and enters the territory of arbitrariness. An unprincipled disallowance of otherwise prudently incurred costs is not a permissible way to manufacture the "lowest end of a range" of reasonable and recoverable costs.

Moreover, the arbitrary reduction of otherwise recoverable costs sets extremely poor policy for future rate proceedings. Parties will not need to bother demonstrating that a utility's operating expenses or capital investments were imprudent. Rather, parties seeking rate reductions can assert that there are reasons to reduce the utility's revenue requirement to achieve what they believe are salutary objectives (based on policy aims like affordability or future, as yet unidentified, priorities). This approach would begin to depart from cost-of-service ratemaking and produce distorted results.

CUB tells the Commission that utilities should not be concerned with such uncompensated delay, but rather should just think of it as "some regulatory lag" in a new form.[370] ORS 757.215(1) limits this type of regulatory lag by providing a ten-month suspension period for rate cases. In violation of this statute, CUB's proposal would prevent a utility from timely recovering its prudently incurred costs. CUB does not cite any support for its novel expansion of regulatory lag, nor does CUB explain how its proposal complies with ORS 757.215.

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[369] UG 490, Order No. 24-359 at 46.
[370] CUB/400, Jenks/25.

2. The Commission should reject CUB's recommendation to select the lowest reasonable ROE.

CUB's proposal to select the "lowest reasonable" ROE as a rate shock tool[371] asks the Commission to set utility ROEs in the interest of creating unreasonably "low ends" of the range. CUB's logic here is simple: the Commission sets a utility's ROE by reviewing the evidence supporting proposals that are between higher and lower proposed ranges. If the lowest end of the range can be suppressed—not due to investment needs of the utility for a reasonable return on investment, but to achieve a policy objective—the "lowest reasonable ROE" could be made low enough to reduce the utility's rates by a pre-determined amount. This could lead to ROE proposals departing from the Commission's standards for how ROE is appropriately calculated. Parties may introduce ROE analysis not based on establishing reasonable returns on rate base, but rather focused on driving the "low end" of the range below reasonable levels, justified by an appeal to achieving policy objectives. Numbers can always be made to dance, but such maneuvers fall short of the fair and reasonable balancing of customer and utility interests mandated by Oregon law and the limits of the U.S. Constitution.

This approach to setting ROE does not reflect a permissible exercise of ratemaking flexibility. For the reasons detailed in PGE's Opening Brief,[372] it strays far from "holistic approach to setting overall just and reasonable rates, consistent with our constitutional and statutory standards,"[373] as the Commission described its ratemaking flexibility in Order No. 24-359. Creativity in ratemaking is bounded

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[371] CUB Opening Br. 76-77.
[372] PGE Opening Br. 174-76.
[373] UG 490, Order No. 24-359, at 46 (citing ORS 756.040, ORS 757.210, and *Fed. Power Comm'n v. Hope Nat. Gas Co.*, 320 U.S. 591, 602-03 (1944)).

by Oregon statutes that insist the process and outcomes reasonably balance customer and utility interests.

As part of the required balancing exercise, it is important to recall the Commission's accurate observation that it "cannot ignore the importance to ratepayers of maintaining the financial viability of the utility."[374] CUB's argument that the lowest ROE and rates possible would subject "utilities to … market discipline," and create an incentive to control spending is misplaced.[375] The businesses that compete in competitive markets are not subject to the comprehensive regulatory regime that controls costs and investments through the rate case process. What CUB refers to as "market discipline" is rather simply a disallowance of prudently incurred costs and a ROE that sends a negative signal to investors (with whom utilities do have to compete for capital).

3. CUB's third-rate shock mitigation tool offers a mix of requirements not targeted to addressing rate shock or unsupported by Commission precedent.

CUB demands that utilities be ordered to take certain actions if CUB's rate shock threshold is met. In its Opening Brief, CUB did not offer more than a reprint of its testimony concerning these measures. PGE opposes the implementation of these new requirements because they are redundant, do not address rate shock, or are inconsistent with prior Commission determinations.

- Delayed effective date for 2025 rates. PGE has offered a proposal for a delayed effective date, as detailed in its discussion of Issue 56.
- Submission of a rate shock mitigation plan. PGE already assists customers who may face energy burdens to understand their options and

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[374] UE 115, Order No. 01-988 at 5 (Nov. 20, 2001).
[375] CUB/100, Jenks/77.

the Company programs available to assist them. As discussed above, PGE is also actively engaged in docket UM 2211 and other forums focused on mitigating rate impacts.

- Disconnection Moratorium. A disconnection moratorium goes well beyond addressing rate shock. PGE has made a rate effective date proposal that mitigates the temporal and seasonal aspects of potential rate shock. A new moratorium, which may further increase arrearages and customers' energy burden, should not be imposed in this proceeding.[376]
- Additional Reporting Requirements. CUB does not explain how requiring utilities to file additional detailed reports on arrearages addresses rate shock. PGE submits that it does not ameliorate rate shock and should not be required.
- Suspend amortization of deferred amounts. The Commission has wisely taken steps to prevent issues in one rate proceeding from crossing over to impact unrelated issues. Tying the amortization of deferred, prudently incurred costs to CUB's proposed triggers will not provide meaningful rate shock relief to customers, but will further complicate utilities' recovery of prudently incurred costs. But preventing recovery of otherwise recoverable costs in utility rates seems to be a key overall driver of the issues CUB places in its overly broad rate shock proposal.

[376] *See* PGE/1200, Sheeran-Wise/24-25.

Issue 59 - Clearwater Deferral

a. *PGE agrees with Staff's proposal to begin amortization of the Clearwater deferral in 2025 following a Commission order in UE 427.*

The parties do not oppose delaying the amortization of the Clearwater deferral until after Clearwater is resolved in UE 427. In their Opening Brief, Staff notes that the target rate effective date for UE 427 has been delayed to March 1, 2025.[377]

Issue 61 - Associated Energy Storage

a. *PGE's inclusion of standalone battery storage at the transmission level is consistent with ORS 469A.120(2)(a).*

PGE has raised this issue multiple times because it is an issue that deserves resolution and finality and whether the company has ultimately dropped the issue multiple times is irrelevant.[378] Further, the need for understanding the issue of whether standalone battery storage is eligible for inclusion in the Renewable Automatic Adjustment Clause (RAAC) has taken on increased prominence. In the past, questions of standalone battery storage treatment were theoretical. With the construction of PGE's new facilities, those questions now need a determination. Staff attempts to use a simplistic legislative interpretation argument to make its case, directing the Commission to a textual interpretation driven by *PGE v. BOLI*.[379] Staff is wrong linguistically, legally, and factually.

First, Staff's use of the term "associate," argues *for* inclusion of standalone storage rather than *against* it for purpose for the interpretation of ORS 469A.120(2)(a). As stated in Staff's brief, the definition of "associate" is something that is "closely connected, joined, or united with another (as in interest, function, activity....)."[380] Standalone storage is as much united in interest, function or activity

[377] Staff's Opening Br. 77:2-8.
[378] Staff's Opening Br. 77:17–18.
[379] Staff's Opening Br. 78:1–7.
[380] Staff's Opening Br. 78:17–19.

as geographically-limited, co-located storage, the purpose of which, in either case, is to integrate, firm, or shape renewable energy resources.[381] Storage, especially that sited at the transmission level as proposed by PGE, is "closely connected, joined, or united" with the rest of the transmission system designed to serve customers. The storage is also united in function with increasing percentages of variable renewable resources, allowing the integration and firming of such resources. That particular function is not limited or constrained by the physical location of the storage. The cited definition supports PGE's position that "associated storage" should receive rate treatment under ORS 469A.120(2)(a).

Second, while Staff turns to one method of statutory interpretation as provided by *PGE v. BOLI,* it fails to account for the *contextual* aspect of that case's statutory interpretation guidance. At the first level of analysis, the court also considers the context of the statutory provision at issue, which includes other provisions of the same statute and rules of statutory construction, especially those mandated by statute. ORS 174.010 reminds us that we should not insert what has been omitted. There is no linguistic guidance or implication in ORS 469A.120(2)(a) to suggest that the legislature intended to constrain automatic adjustment clause treatment for associated storage within a certain geographic boundary or limitation. What Staff seeks to do is add something akin to "directly connected" or "physically co-located" to the statutory language, where it does not exist. The term "associated" should also be viewed in the context of the immediately preceding term "associated electricity transmission." In the context of energy facilities, those projects are understood to contain, as part of the facility, the generation-tie lines.[382] But in

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[381] PGE/3301.

[382] *See* ORS 469.300(14): "Facility" means an energy facility together with any related or supporting facilities. *See also* ORS 469.300(24): "Related or supporting facilities" means any structure…to be

adopting ORS 469.120(2)(a) the Legislative Assembly provided guidance that transmission lines, in addition to the generation-tie lines, should receive rate treatment under the automatic adjustment clause provision. These transmission lines are, by extension, lines that are not co-located, but standalone, functioning to bring renewable electricity to customers. Thus, contextually, not only is Staff's interpretation disfavored because it seeks to add something that is not there, it also is not consistent with how the same term in the same sentence must be viewed. The Commission should not insert a physical limitation and should look at other language in the same sentence.

Further, ORS 174.010 also tells us to, if possible, in construction to give effect to all of the provisions of the statute. A laser focus on the word "associated" ignores the other provisions of ORS 469A.120. Subsection (1) of the statute lays out the rule: rate recovery is allowed for prudently incurred costs associated with complying with the RPS. Those costs can include physical or financial assets to integrate, firm or shape renewable energy sources on a firm, annual basis to meet retail electricity needs. Subsection (2)(a) provides for a special type of recovery for certain of those assets, an AAC or other method that provides timely recovery. Here, PGE agrees with Staff's assertion that "[t]he list of expenses that are subject to cost recovery under ORS 469A.120(2)(a) is smaller than the list of expenses that are recoverable in rates under ORS 469A.120(1)."[383] But that is beside the point and PGE has not argued that all prudently incurred costs for compliance with the RPS should be subject to an AAC. Where Staff's interpretation fails is in ignoring ORS 469A.120(2)(b), which provides that the breadth of costs subject to the AAC must be

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constructed…in connection with the construction of an" energy facility, including associated transmission lines….

[383] Staff's Opening Br. 79:8–10.

decided in a proceeding – the Commission should be able to determine in an evidentiary proceeding whether prudently incurred costs for a particular energy storage facility were incurred to integrate, firm or shape renewable energy sources on a firm, annual basis. Staff seeks to end the inquiry at "associated" which would eliminate the possibility of PGE to make the argument that any particular facility is so associated with RPS compliance.

Third, in order to make its legal argument, Staff engages in a factual determination: "A stand-alone battery is not RPS compliant as it is charged by the grid rather than a renewable resource" and then goes on to simplistically state that it "makes no sense the legislature would intend for utilities" to use the AAC "to recover non-RPS compliant costs." Staff errs in its factual understanding of storage. PGE has never claimed that a battery storage facility is an RPS complaint resource if not for any other reason than that it does not generate electricity. There are other costs listed in ORS 469A.120 that also are not "RPS compliant": interconnection costs, financial assets, and transmission costs[384] and this fact poses no barrier to cost recovery for those expenses. Factually, standalone storage will be charged from the grid, much as co-located facilities could be charged from the grid. But the role storage plays in RPS compliance is not in the generation of renewable energy certificates, or in compliance per se, it is in firming, shaping and integrating the RPS-compliant variable energy resources and in the "delivery of qualifying electricity to retail electricity consumers,"[385] an aspect without which all of the effort in generating renewable energy would be for naught.

The Commission should find Staff's arguments without merit and allow PGE to seek recovery of costs of standalone storage in an AAC proceeding.

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[384] ORS 469A.120(1).
[385] *Id.*

Issue 62 - Multi-year Rate Cases

a. An investigation is unnecessary.

Staff indicated in its Opening Brief that in light of the Commission's order in UG 490,[386] it was withdrawing its request that an investigation be opened into the framework multi-year rate cases. PGE supports the withdrawal of this request.

[386] UG 490, Order No. 24-259, 50 (October 25, 2024).

III. Conclusion

For the reasons discussed above, Portland General Electric Company requests the Commission approve the requested rate change.

Respectfully submitted this 8th day of November 2024.

Respectfully submitted,

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