

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON
UM 2377**

In the Matter of

PUBLIC UTILITY COMMISSION OF
OREGON,

Investigation into Marginal Cost Study Treatment
of Costs for Large Customers and Further
Modifications to Portland General Electric
Company's Rule C and Rule I.

JOINT BRIEF IN SUPPORT OF
STIPULATION

In its Final Order resolving issues in PGE's 2024 General Rate Case, Docket No. UE 435, the Commission ordered a docket be opened to investigate new load connection costs and consideration of an interim measure to mitigate potential risks to customers associated with new large loads during the pendency of the investigation. The Administrative Hearings Division opened Docket No. UE 430, in December 2023. PGE submitted its initial proposal in UE 430 proposing changes to Tariff Rules C and I and a modified tariff in December 2024. PGE filed a revised filing in February 2025 in response to feedback from parties and direction from the Commission.

PGE's UE 430 filing proposed changes to Rule C and Rule I and a modified tariff. The Commission approved PGE's revised UE 430 filing, which made any Customer Service Contracts signed after April 16, 2025 and under the revised Rule C and I subject to change based on the outcome in this docket. The Commission also ordered the opening of a new docket to investigate further modifications to Rule C and Rule I and PGE's marginal cost study's treatment of transmission costs for large customers. This docket, UM 2377, was opened on March 7, 2025.

Subsequently, on June 16, 2025, Governor Tina Kotek signed HB 3546, also referred to as the POWER Act, into law. The law requires the Commission to provide for separate and distinct classification of service for a large energy use facility as defined within the Act.

Parties to Docket No. UM 2377 (“Parties”) each had the opportunity to submit three rounds of testimony, on August 11, November 7, and December 19, 2025. On January 14, 2026, all Parties had the opportunity to submit a Position Statement regarding a list of 56 contested issues prepared and circulated by PGE. The same day, PGE filed the First Partial Stipulation (the “Stipulation”) executed by a subset of Parties to this docket resolving nine discrete issues discussed below. The Stipulating Parties include Staff; PGE; the Alliance of Western Energy Consumers (AWEC); Amazon Data Services, Inc. (ADS); Data Center Coalition (DCC); Climate Solutions, Columbia Riverkeeper, Community Energy Project, Green Energy Institute, and Oregon Environmental Council (together “Climate Solutions Coalition”); and the Oregon Citizens’ Utility Board (CUB) (All together, the “Stipulating Parties”). The other parties to the docket: Verrus, Inc., Northwest Independent Power Producers (NIPPC), and the Columbia River Inter-Tribal Fish Commission (CRITFC) did not join the Stipulation, but neither did they indicate opposition in communications between the parties leading up to execution of the Stipulation.

1. Stipulation Scope: The Stipulation settles a discrete set of issues within docket UM 2377.

This provision of the Stipulation is self-explanatory.

2. Study Cost: Adopt PGE’s Opening Testimony proposal to charge a flat fee for all studies for customers under 4 MW and allow changes to Rule I, Section 2 outlining the expiration period for study results (60 days unless extended) (PGE Exhibit 407).

Section 2 of PGE’s Rule I addresses “Applicant Cost Responsibilities” for new connections, line extensions, and system upgrades. Rule I, §2 specifies that customers seeking new service or expanding service will be required to enter into an agreement to pay for any studies necessary for interconnection. PGE proposes changes to Rule I to specify that applicants seeking new service or expansion of service between 1MW and 3.99MW will pay a flat rate for each study required as part of the interconnection process.

PGE’s proposed Rule I, §2, also includes new language specifying that all study results conducted in connection with applications for new and expanding load will expire 60 days from issuance, unless extended. The language included in Rule I, §2, regarding expiration of studies for new permanent service for load between 1 and 3.99 MW in Capacity Category 2A, is as follows:

All study results will expire 60 days from issuance. Applicant may request an extension of the validity of the study results for no longer than 365 days from issuance. Company may grant an extension of the validity of the study results so long as no other customer has applied for capacity on infrastructure the Company deems necessary to serve Applicant’s load request. In the case where another customer applies for capacity on infrastructure the Company deems necessary to serve Applicant’s load request, the Company will notify an Applicant with an extension that such application has been received and will issue Applicant a revised timeline to authorize the Company to proceed with design of the Line Extension or execute a subsequent study agreement, whichever is offered by the Company. Applicant will forfeit their place in the capacity queue as described in Section 4 of this rule if the validity of their study results expires

without Applicant providing formal authorization to the Company to proceed with design of the Line Extension or Applicant fails to execute a study agreement offered by the Company before the expiration of the study results.¹

Similar language is included for existing customers seeking new or expansion of service in different capacity categories is also included in Rule I, §2.

The Stipulating Parties agree that requiring applicants for service under 4 MW to pay a flat fee rather than a fee that varies depending on time and complexity, will reduce administrative burden and complexity for both applicants and PGE. The Stipulating Parties also agree that it is reasonable to place an expiration date on the studies, and that 60 days with the option to extend to one year is a reasonable balance of interests.

This issue was not included on the list of contested issues submitted by PGE. PGE's Position Statement included this as Issue No. 56² as a topic that the Commission should address and included it in its opening brief. It was not otherwise addressed by parties in their Position Statements and briefs. The parties that did not join the Stipulation, Verrus, CRTFC, and NIPPC, did not address this issue in testimony.

¹ PGE/407, Ferchland - Barrow - Jose / 8-9 (Rule I(2)(B)).

² Position Statement Issue No. 56 is "[s]hould the Commission address any other topics than those identified above that are appropriately within the scope of this docket?" (January 14, 2026).

3. Creation of Schedule 96: Adopt PGE’s proposal for Schedule 96 rate design defined as the following sections of proposed Schedule 96: Purpose, Applicability, Monthly Rate, Types of Charges (basic charge, transmission and related service charge, distribution charges, system usage charge, and generation demand), as well as primary and subtransmission service levels.

House Bill 3546 (2025) requires the Commission to provide for a classification of service under ORS 757.230 for retail electricity consumers that are large energy use facilities. “Large energy use facility” means a facility that uses or is able to use 20 megawatts or more and is primarily engaged in providing a service described under code 518210 of the 2022 North American Industry Classification System. Under HB 3546, the classification of service must be separate and distinct from classifications of service for other commercial or industrial retail electricity consumers and have its own tariff schedule.

PGE has proposed Schedule 96 for customers that meet the criteria for a new class of service under HB 3546.³ While the Stipulating Parties do not agree on the amount or design of charges, they do agree the tariff should include the components listed above.

The list of contested issues submitted by PGE on February includes a similarly worded issue, which is “Should the Commission approve large load data center customer class and the other provisions included in Schedule 96 as proposed in PGE Exhibit 410?”⁴ The Stipulating Parties do not agree that the Commission should adopt Schedule 96 “as proposed” by PGE. Meaning, although the Stipulating Parties agree the schedule

³ PGE/100, Ferchland – Barrow / 3.

⁴ PGE’s Contested Issues List, January 14, 2026, Issue No. 2.

should include the components and charges listed, they do not agree on how the components and charges should be calculated.

For example, in its Position Statement, AWEC states that its position on Issue No. 2 is that the Commission not approve Schedule 96 as drafted, pointing to its arguments opposing the proposed Peak Growth Modifier at issue in this proceeding. The Stipulating Parties do not agree on PGE's proposal for Peak Growth Modifier. Instead, whether the Commission should adopt PGE's proposed Peak Growth Modifier is another specific issue included in the list of contested issues.

Finally, CRITFC indicates in its Position Statement that it believes Schedule 96 should include additional provisions:

CRITFC believes additional protections are necessary, as identified in our testimony, including that Schedule 96 include general provision to ensure alignment with the full criteria of HB 3546, Section 2, including the recommendations outlined in our testimony for: 1) adequate cost allocation to protect other customer classes, and additional terms related to 2) standards to improve data center grid performance, 3) direct investment in efficiency programs and other benefits for vulnerable communities, 4) transparent impact reporting in line with HB 2021 and HB 3546 public interest goals, and 5) utility-tribal consultation to discuss and mitigate cumulative impacts to reserved rights, resources, and sovereign prerogatives.⁵

The issues with Schedule 96 raised by CRITFC are included elsewhere in the list of contested issues. CRITFC has not indicated it disagrees with the Stipulating Parties agreement that Schedule 96 should include the elements stipulated to in the First Partial Stipulation.

⁵ CRITFC Position Statement at .

4. Large Load Customer Agreement (LLCA) Threshold: Revise Rule I to lower minimum threshold for customers that require an LLCA to 20 MW and greater.

PGE's Rule I "establishes procedures and defines respective cost responsibilities for new Electricity Service connections or increases to existing Electricity Service and their respective system upgrades including but not limited to a Line Extension[.]"⁶

PGE's Rule I currently divides customers into three categories: Category 1 for customers with load less than 1,000 kW; Category 2A or 2B for customers with load between 1,000 kW and 30,000 kW; and Category 3 for customers with load greater than 30,000 kW.

Under PGE's Rule I, customers in Category 2B must execute a Minimum Load Agreement and customers in Category 3 must execute a Large Load Customer Agreement (LLCA).

As discussed above, HB 3546 requires the Commission to establish a new classification of service for large energy use facilities, which are facilities able to use 20 MW or more.⁷ To align with the required classification in HB 3546, the Stipulating Parties agree that the obligation to execute a Large Load Customer Agreement should be at 20 MW rather than 30 MW.

Issue No. 34 on the list of contested issues submitted by PGE is "[w]hat should be the kW threshold for requirements of LLCA?". The non-stipulating parties did not take a position on this issue.⁸

⁶ PGE Rule I, p. 1.

⁷ House Bill 3546(2)(d).

⁸ UM 2377 – CRITFC – POSITION STATEMENT, "CRITFC Position: CRITFC takes no position at this time."

5. Load Following Credit: Do not extend Load Following Credit to Schedule 96 at this time. This resolves all Load Following Credit issues in this docket.

The Load Following Credit applies to PGE's Schedule 90 customers with load greater than 250 MWa. Staff states that the purpose of the credit is to recognize benefits to PGE's system that large customers with high load factors bring to the system by lowering the need to procure flexible capacity. Other schedules are allocated the cost of the credit.⁹ In Opening Testimony CUB noted concerns that data centers will meet PGE's load following credit requirements of aggregate energy usage above 250 MWa and a load factor of 80% or greater for each account.¹⁰ CUB noted that today, the large, inflexible loads of data centers are being served by intermittent resources, which creates a need for a great deal of flexible capacity, such as battery storage to supply capacity when production from intermittent resources is low.¹¹ CUB argued that the load following credit should not be extended to new data center facilities that come on to the system in the current era of intermittent resources backed up by storage.¹² In Opening Testimony, Staff recommended phasing the credit out of Schedule 90 by reducing it by 50 percent in this docket and eliminating it in PGE's next general rate case. Staff also recommended the load following credit not be included in Schedule 96.

In Rebuttal Testimony, PGE reiterated its position from Opening Testimony that the load following credit should not be extended to Schedule 96.¹³ AWEC also opposed Staff's recommendation to reduce the Schedule 90 credit arguing it should not be an issue

⁹ Staff/100, Stevens/65.

¹⁰ CUB/100, Jenks/31.

¹¹ Id. at 32.

¹² Id. at 32-33,

¹³ PGE/200, Ferchland – Barrow/7.

in this docket and that Staff's arguments that it should be phased out were unsupported.¹⁴ CUB supported Staff's recommendation that the load following credit should be phased out for all customers.¹⁵

The Stipulating Parties agree that the load following credit should not be extended to Schedule 96. The Stipulating Parties also agree that Staff's recommendation regarding the Schedule 90 load following credit should not be addressed in this docket. This maintains the load following credit in its current form and amount for Schedule 90.

6. Substation Marginal Cost Study: Update PGE's distribution marginal cost study to adopt PGE's Opening Testimony proposal to calculate separate substation marginal costs by class to account for the significant differences in the way various customer classes use distribution infrastructure. (PGE/100, Ferchland-Barrow/16).

In Opening Testimony, PGE proposed to change its practice of using a single, system-wide estimate for substation marginal costs and instead apply differentiated substation marginal costs by customer classes. PGE explained that historically, PGE estimated and applied one generic substation design—based on two 35MVA transformers—to all customer classes, resulting in uniform \$/kW substation costs. PGE testified this approach did not account for the significant differences in the way various customer classes use distribution infrastructure and that its proposed method aligns substation cost estimates with the distinct service requirements of each class, resulting in a more accurate, cost-reflective allocation of distribution system costs.¹⁶

¹⁴ AWEC/200, Kaufman/14-17.

¹⁵ CUB/200, Jenks/41-42.

¹⁶ PGE/100, Ferchland-Barrow/16.

The Stipulating Parties agree with PGE’s proposal to modify the marginal cost study methodology as proposed by PGE to more precisely capture costs of different types of substations installed for different customer classes.

7. Queue Maintenance Costs: PGE will continue to allocate administrative costs associated with queue management under Rule I that are not assigned to an individual customer or applicant only to the rate schedules which utilize the queue.

In Opening Testimony, CUB testified that costs of interconnection for data centers that are not directly assigned to customers, including PGE’s cost to maintain the interconnection queue, should be incorporated into the marginal cost of energy and capacity so the costs are not spread to other customer classes.¹⁷ The Stipulating Parties agree that it is appropriate to allocate administrative costs associated with queue management to respective customer classes.

8. Contributions in Aid of Construction (CIAC): Revise Rule I to allow any customer with an LLCA or MLA to contribute up to 100% CIAC for non-shared distribution assets.

In Opening Testimony, Staff recommended that customers at or above 20 MW should be able to contribute 100 percent of the cost of their distribution assets.¹⁸ In response, PGE noted that it continued to support its initial proposal in Opening Testimony of 50 percent contribution for distribution assets, but was “open to allowing

¹⁷ CUB/100, Jenks/40-41.

¹⁸ Staff/200, Bolton/8.

customers to contribute up to 100 percent of the cost of their distribution assets for distribution facilities providing no material shared system benefit (for example, when infrastructure serves a single customer or a dedicated service point).¹⁹ CUB testified that it supported opportunity for customers to provide contributions in aid of construction for all resources necessary to serve them.²⁰

The Stipulating Parties agree that it is reasonable to allow customers with loads 20 MW and above to contribute 100 percent of the cost of distribution assets needed for interconnection, when the assets serve a single customer or dedicated service point.

9. Allocation Claw Back: Adopt removal of “clawback” as described in PGE/200, Ferchland-Barrow/26 (lines 12-14) and make corresponding changes to Rule I, section 5, to implement its removal.

PGE’s Tariff I currently includes the “clawback” provision that allows PGE to reclaim allocated capacity if the customer does not meet certain minimum demand levels.

Under the terms of any LLCA, Allocated System Capacity is determined on a rolling three-year basis until the termination or expiration of the LLCA. At the end of each allocation period, the allocation will auto-renew at the Allocated System Capacity unless, (1) the Company has reduced the Allocated System Capacity due to failure to meet the Minimum Transmission Demand at least three (3) times in the immediately preceding allocation period, (2) the customer has requested a reduction of their Allocated System Capacity and the Company has accepted the reallocation of system capacity to another customer, or (3) the Customer fails to meet the requirements of the Flexible Load Plan, as defined in the LLCA.

If Customer’s Demand fails to meet the Minimum Transmission Demand as outlined in the LLCA at least three (3) times in the immediately preceding allocation period, then the Company may reduce the Allocated System Capacity to Customer’s highest Demand measured during such allocation period pursuant to the terms of the LLCA. The terms and conditions

¹⁹ PGE/200, Ferchland - Barrow/30.

²⁰ CUB/100, Jenks/43.

applicable to potential reductions in Allocated System Capacity based upon the Customer's failure to satisfy the requirements of any Company flexible load program or upon the Customer's timely request to reduce the Allocated System Capacity will be set forth in the LLCA. The Customer will not be required to pay a new System Capacity Allocation Deposit at commencement of each allocation period, but transmission charges will be based upon the Minimum Transmission Demand established for the three-year period.²¹

PGE included no change to this language in its Opening Testimony. Some large load customers voiced concerns to PGE regarding the "clawback" portion of this section of Rule I, claiming that capacity allocated to them should not be lost or clawed back as long as they were paying minimum demand charges (even if usage levels were below minimum demand thresholds).

In Rebuttal Testimony, PGE agreed to address this concern: "[w]hile clawback provisions are not commonplace in other jurisdictions they balance the need to have certainty on reserved capacity. PGE proposes to eliminate the clawback provision so long as large load customers adequately pay for their reserved capacity via minimum charges."²² PGE included revisions to Rule I with its Rebuttal Testimony, removing the two paragraphs quoted above and adding the following in the System Capacity Allocation Adjustment portion of Rule I, §5:

~~K.~~System Capacity Allocation ~~Period~~Adjustments.

Under the terms of any LLCA, Allocated System Capacity is held for the duration of the contract term, including renewals. The Company may reduce capacity if Customer fails to meet the requirements of the flexible load plan as outlined in the LLCA.²³

²¹ PGE Tariff, Rule I §5(K). This provision of Rule I is currently §5(K); however, proposed changes in this docket have resulted in this section being renumbered to §5(N) in PGE Exhibit 202 and §5(O) in PGE Exhibit 407.

²² PGE/200, Ferchland-Barrows/26, lines 12-14.

²³ PGE/202, Ferchland-Barrow/22 (Rule I, §5(N), per the numbering in this PGE Exhibit).

In Surrebuttal Testimony, PGE proposed additional changes to the System Capacity Allocation Adjustment provision of Rule I, §5 in an attached exhibit but did not discuss the changes in the written testimony itself. While maintaining the deletion of the two paragraphs quoted above that included the clawback provision, PGE’s exhibit proposed adding the following italicized language:

Under the terms of an LLCA, the Company *will make commercially reasonable efforts to* hold Allocated System Capacity for the duration of the contract term, including renewals. The Company may reduce capacity if Customer fails to meet the requirements of the flexible load plan outlined in the LLCA.²⁴

PGE believes that its proposed changes to the System Capacity Allocation Adjustments portion of Rule I, Section 5(O) in PGE Exhibit 407 are consistent with Paragraph 9 of the Stipulation because it continues to reflect the deletion of the two paragraphs quoted above that contain the clawback provision in the current version of PGE’s Rule I and does not allow PGE to reclaim Allocated System Capacity based on the failure to meet certain minimum demand thresholds. Other Stipulating Parties believe that the insertion of the qualification “commercially reasonable efforts” to PGE’s obligation to hold Allocated System Capacity was inconsistent with Paragraph 9 of the Stipulation.

To resolve these differing perspectives, PGE agrees that it will not seek to include the qualification “commercially reasonable effort” to its obligation to hold Allocated System Capacity in Rule I, §5(O) under LLCAs and asks that the Commission, to the extent it grants PGE’s request to approve the changes in PGE Exhibit 407 do so in a

²⁴ PGE Exhibit 407. The language in italics and bolded reflects proposed new language not included in PGE Rebuttal Testimony or PGE Exhibit 202.

manner that clarifies that PGE's obligation is not qualified by the phrase "commercially reasonable effort."²⁵

10. Site Aggregation: No changes will be made to the site aggregation definition in Rule I, section 1. This will resolve all issues related to site aggregation for this docket.

In Docket No. UE 430, the Commission authorized PGE to include the following language in Rule I regarding site aggregation:

For customers in Capacity Categories 2 and 3, the Company will aggregate capacity requests as one Site request where buildings with Like Ownership are located within 2,500 feet or are located at greater than 2,500 feet and are electrically connected, such as served from the same substation.²⁶

In Opening Testimony, Staff proposed language modifying criteria for aggregation for Category 2 (between 4 and 19.99 MW) and Category 3 (over 20 MW) as follows: "Treat Category 2 and Category 3 capacity requests as one Site if they are within 2,500 feet from each other or connected to the same substation and have Like Ownership."²⁷ Staff also recommended a second site aggregation provision, which would specify if two sites have Like Ownership and are located anywhere within PGE's service territory, the sites would be aggregated for the purpose of setting an overall Minimum Generation Demand charge and applying a related Exit Fee and Exceedance Penalty.

²⁵ PGE proposed a similar qualification to its obligation to hold Allocated System Capacity for MLAs under Rule I, Section 5(O). See PGE/407, Ferchland-Barrow-Jose/25. While Stipulating Parties have not objected to this language as it applies to MLAs, PGE agrees to not seek to include this "reasonable efforts" qualification to its obligation to hold Allocated System Capacity in MLAs.

²⁶ PGE Rule I, §3(C).

²⁷ Staff/100, Stevens/41.

Staff noted this second category was intended to protect against large customers disaggregating to avoid inclusion in a larger customer class.²⁸

The Stipulating Parties agree that the language included in PGE's Rule I is satisfactory and should not be changed. The Stipulating Parties also agree to not include Staff's alternate proposal to aggregate generation for purposes of applying the Minimum Generation Demand change. PGE believes the record does not show at this time that there is a likelihood of harm from customers disaggregating to avoid classification in a larger rate class. Staff agrees that whether there is a need for protection from disaggregation can be addressed at a later time.

PGE's List of Contested Issues included the following as Issue No. 42: "Should the concept of site aggregation be changed to account for commonly owned facilities within PGE service territory? (Staff/500, Stevens/48-49)." None of the non-stipulating parties took a position on this issue.

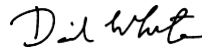
²⁸ Staff/100, Stevens/42.

Overall, the Stipulation clarifies planning requirements, modernizes elements of PGE's marginal cost framework, and streamlines customer study and queue processes, while leaving remaining UM 2377 issues to be resolved by the Commission based on the extensive record developed in this docket. The Stipulating Parties affirm that the Stipulation is in the public interest and produces fair, just, and reasonable outcomes. They jointly support and request Commission approval of the partial settlement.

DATED this 10th day of April, 2026.

Respectfully Submitted By:

**PORTLAND GENERAL ELECTRIC
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