BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 1071

In the Matter of Portland General Electric Company Application for Deferral Of Hydro Replacement Power Costs	)))	CUB'S REPLY TO PGE'S MOTION FOR RECONSIDERATION

The Citizens' Utility Board replies to PGE's Motion for Reconsideration in this docket pursuant to OAR 860-014-0095(4). PGE's arguments are without merit and the Commission should deny the Motion for Reconsideration.

I. The process was of PGE's own making and supports the Commission decision.

PGE's second assignment of error, which is primarily a procedural complaint, argues that the Commission erred by making factual findings on disputed issues without the benefit of a hearing. Motion for Reconsideration, p. 7. PGE says that the Commission resolved the disputed issues without testimony, a hearing or cross-examination regarding issues of fact. This is a remarkable challenge considering that PGE was the primary author of the schedule in this docket. The Prehearing Conference on October 3, 2003, was a drawn out discussion of how the process should proceed. PGE largely got the type and timing of the schedule it desired, even to the point that the Administrative Law Judges' order memorializing the conference noted that "CUB expressed concern about what issues are covered in the deferral application and whether those issues will be precluded from discussion during the amortization case. PGE agreed that issues of appropriateness for deferral covered in the deferral round can also be raised in the amortization case." Prehearing Conference Memorandum, Oct. 31, 2003.

In addition to allowing all arguments in both the deferral round and the amortization round, the Memo indicated that PGE would supplement its filing with factual information with regard to the availability of thermal plants and projected hydro output. Ibid. There was plenty of notice from the outset that factual issues were to be a part of this process which included PGE's filing, its supplemental filing, two sets of simultaneous comments and an oral argument. PGE claims that the Commission's treatment of the particular set of facts having to do with "stochastic or scenario risk" somehow invalidates this process. But this information is not qualitatively different from all the other information presented in the deferral round.

Of course, PGE denies the obvious and states that it had no reason to expect the Commission to resolve disputed issues of fact in the deferral phase. In its argument, PGE cites the UM 995 Order. Motion, p. 9. PGE argues that UM 995 says that "contested factual issues" should be punted until the recovery stage. Yet, this is not what was done in UM 995. The first threshold issue in UM 995 was the very same threshold issue that the Commission considered in UM 1071: was the cost at issue here extraordinary or was it part of the normal averaging of power cost components that happens during normalization. In UM 995, the Commission concluded that we "agree with PacifiCorp that the expenses for which it seeks deferred accounting are based on extraordinary behavior of the power markets and are not ordinary power cost expenses." Order No. 01-085, p. 12. Much like this docket the Commission answered that question based on a utility application and comments filed by staff and intervening parties. There was no sworn testimony and no hearing, yet the Commission made a decision on whether a cost was extraordinary or not and whether a deferral application would be granted.

On this assignment of error PGE is either arguing that the Commission erred in granting PGE's version of the process, or the only process that would pass PGE's muster is one in which there is no possible way the Commission could deny PGE's deferral request. Both procedural arguments are nonsense.

<u>II. The Commission decision rejected PGE's new policy and relied on traditional rate-making.</u>

In another assignment of error, PGE argues that the Commission erred by introducing a new deferral policy in this docket without adequate notice. Motion, p. 4-6. This is also a remarkable argument given how all the other parties to this docket commented that it was PGE that was attempting to stretch deferred accounting into a new policy direction. All the other parties' comments, and ultimately the Commission's order, were attempting to hold the line on how far deferred accounting should go.

PGE seizes on the word "stochastic" to try to create a new policy where no new policy was formed. The Commission stated in its Order "risks normally included in modeling power costs (stochastic risks) are not appropriate for deferred accounting, as long as those risks are reasonably predictable and quantifiable and have no substantial financial impact on the utility. . . For a stochastic risk to justify deferred accounting, the financial impact must be substantial. . . [d]eferred accounting treatment is appropriate for scenario or paradigm risks, extraordinary events that fall outside the predictable and quantifiable." Order 04-108, March 02, 2004, p. 9. In other words, for costs that were assumed in rates based on averages, deferred accounting will only be used in extraordinary circumstances; for other unique costs not in rates, deferred accounting might also be appropriate. This mirrors most of the testimony supplied by the other parties in the docket.

What the Commission did was to apply the discretion afforded it in statute and reject PGE's argument that customers should bear the risk of variation of costs that were normalized in rates and remain within a normal range of variation. This is Basic Ratemaking Theory 101. Utility rates are set based on a test year (historic or future) that is adjusted (normalized) to reflect normal or average conditions. A utility bears the risk that conditions will not be average. The exception to the rule that the utility bears this risk is

when the deviation from normal is "extraordinary."

Compare this Order with the order in UM 995, this time not on process, but on substance. Using the same basic process, the Commission in UM 995 examined the information before it and found "that the expenses for which it seeks deferred accounting are based on extraordinary behavior of the power markets and are not ordinary power cost expenses." Order No. 01-085, p. 12. Here, the Commission's conclusion was "that the cause of PGE's request is not extraordinary enough to justify deferred accounting." Parallel processes, different results. If the Commission were to buy PGE's arguments here, the result would be the elimination of Commission discretion to determine whether to grant deferrals in the first place.

The Commission used the process PGE asked for and decided this case by applying long-standing, basic utility rate-making policy. The Commission should reject PGE's Motion for Reconsideration.

Dated this 18th day of May, 2004

Respectfully submitted,

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