

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1817

In the Matter of)	COMMENTS OF THE ALLIANCE OF
)	WESTERN ENERGY CONSUMERS
PORTLAND GENERAL ELECTRIC)	AND OREGON CITIZENS' UTILITY
COMPANY,)	BOARD
)	
Application for the Deferral of Storm-Related)	MARCH 12, 2019 PUBLIC MEEITNG
<u>Restoration Costs.</u>)	REGULAR AGENDA ITEM NO. 2

The Alliance of Western Energy Consumers and the Oregon Citizens' Utility Board (collectively, the "Customer Groups") submit these comments in support of the Oregon Public Utility Commission ("Commission") Staff's recommendation to deny Portland General Electric Company's ("PGE" or "Company") request to defer for later recovery expenses it incurred in 2017 related to Level III storm costs.

In addition to the reasons Staff provides in its memo, the Customer Groups note that PGE's petition simply fails the threshold issue of meeting the statutory requirements for deferred accounting.^{1/} The Commission has previously rejected PGE's requests for deferred accounting due to their failure to meet the statutory requirements.^{2/} As with prior petitions that have been denied, the Company relies on ORS 757.259(2)(e), the catch-all provision which authorizes deferred accounting if PGE demonstrates that the deferral would "minimize the frequency of rate changes" or would "match appropriately the costs borne by and benefits received by ratepayers." In its application, PGE merely asserts that this deferral will meet both of these requirements, but provides no explanation or evidence as to *how* it will meet these

^{1/} Docket No. UM 1071, Order No. 04-108 at 8 (Mar. 2, 2004).

^{2/} Docket No. UM 1623, Order No. 16-257 (July 7, 2016).

requirements.^{3/} The Company, therefore, has not met its burden of proof and persuasion to show that its deferral is legally authorized.

Indeed, PGE cannot possibly meet the first of the statutory criteria, as it filed general rate cases in both 2017 and 2018.^{4/} This deferral did not, in other words, avoid or defer (so to speak) a rate filing, nor could it have.

Nor does PGE's filing "match appropriately" costs and benefits. While customers surely benefit from PGE's storm remediation activities, and their associated costs, as Staff discusses in its memo customers pay an annual accrual to the Company based on the 10-year rolling average of Level III storm costs through a special rate mechanism designed to account for the year-by-year fluctuations in these costs. There are years in which this accrual exceeds the cost PGE incurs for Level III storm costs and years in which these costs exceed the accrual. Thus, while PGE's deferral may "match" costs incurred in 2017 and benefits received, it does not match "appropriately" these costs because it singles out a year in which costs exceeded the accrual, and does not recognize years in which the accrual has exceeded Level III storm costs.^{5/}

Even assuming, however, that PGE's application satisfies the statutory requirements for a deferral, it fails to meet the Commission's discretionary standard for granting a deferral, discussed in Staff's memo. As Staff notes, deferred accounting is an exception to the rule against retroactive ratemaking. It is also a form of single-issue ratemaking that the Commission has long disfavored.^{6/} Over- or under-recovery of any single expense is irrelevant

^{3/} PGE Application at 3.

^{4/} Docket Nos. UE 319 & UE 335.

^{5/} Due-Donohue v. Beal, 191 Or. App. 98, 101 (2003); In re Holmlund's Estate, 232 Or. 49, 67 (1962); Re Honeywell Int'l, Inc., Docket No. DR 40, Order No. 08-388 at 12 (July 31, 2008) (holding that courts "should interpret statutes and rules so as to give meaning to every word"); see also, Docket No. UM 1623, Order No. 16-257 at 4 (rejecting PGE deferral for failure to "match appropriately" costs and benefits).

^{6/} In re PGE Request for a General Rate Revision, Docket Nos. UE 180/UE 184, Order No. 07-454 at 5 (Oct. 22, 2007); City of Portland v. PGE, Docket No. UM 1262, Order No. 06-636 at 7 (Nov. 17, 2006).

in ratemaking; it is the “total effect of the rate” that matters.^{7/} For these reasons, the Commission has found that “[d]eferred accounting is an exceptional form of ratemaking,”^{8/} one that “should be used sparingly.”^{9/}

PGE has moved away from these principles recently. By the Customer Groups’ count, PGE has at least 11 deferred accounting petitions pending before the Commission. While some of these are authorized pursuant to stipulations, there is no justification for this level of departure from standard ratemaking practices, particularly during a period in which PGE has filed nearly annual rate cases and, in the deferral at issue here, already has an extraordinary accrual mechanism to allow it to recover Level III storm costs from customers.

Because PGE has an extraordinary accrual mechanism that builds an assumed amount of Level III storm costs into rates, Staff concludes that these costs represent a stochastic risk for which the financial threshold must be “substantial.”^{10/} This is consistent with the Commission’s reasoning in distinguishing between stochastic and scenario risks:

The financial threshold for deferred accounting is lower for the scenario or paradigm risk because the effect of that type of risk is not likely to fluctuate as the stochastic risks do. Hydro variability, for example, causes costs to swing above and below the average included in rates, so the effect should average out. For paradigm or scenario risks, there is no likelihood that a cost swing will be balanced out over time.^{11/}

^{7/} Federal Power Comm’n v. Hope Natural Gas Co., 320 U.S. 591, 602 (1944); see also, Gearhart v. Pub. Util. Comm’n of Oregon, 255 Or. App. 58, 63 (2013) (“the validity of a particular determined rate is measured, not on the individual theories or methodologies used by the PUC, but on the ‘end result’ and whether it is just and reasonable”).

^{8/} Re Northwest Natural Gas, Docket Nos. UM 1635 & UM 1706, Order No. 15-049 at 12 (Feb. 20, 2015).

^{9/} Re Commission Staff Request to Open an Investigation Related to Deferred Accounting, Docket No. UM 1147, Order No. 05-1070 at 10 (Oct. 5, 2005).

^{10/} Staff Memo at 3.

^{11/} Order No. 04-108 at 9.

As the accrual mechanism provides PGE with protection against years with higher-than-average storm costs by providing it with accruals in years where costs are lower than average, these costs should be viewed as a stochastic risk for which a substantial financial impact is necessary.

However, even if the Commission determines that Level III storm costs represent a “scenario” risk, the financial impact from such a risk must still be “material.”^{12/} As Staff notes, the impact of 2017 storm costs on PGE represent less than 50 basis points of return on equity (“ROE”). Rate regulation allows PGE the opportunity to earn more than its authorized ROE if it manages its costs and conditions are favorable between rate periods, but that also means that it must be prepared to assume some risk of unfavorable conditions. A mere 50 basis points is well within the band of normal risk a utility should be expected to assume to justify the return it is authorized in the first place – PGE’s power cost adjustment mechanism, for instance, includes an earnings test with a 100 basis point dead band, more than double the impact of PGE’s 2017 storm expenses before collection could even trigger.^{13/} The Commission should adopt Staff’s recommendation in this matter.

Sincerely,

/s/ Tyler C. Pepple

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^{12/}

Id.

^{13/} Docket No. UE 180, Order No. 07-015 at 26 (Jan. 12, 2007).