BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 1817

In the Matter of	)
	)
PORTLAND GENERAL ELECTRIC COMPANY,	)
	)
Application for the Deferral of Storm-Related Restoration Costs.	)
	)

CLOSING BRIEF

OF THE

OREGON CITIZENS' UTILITY BOARD

June 27, 2019

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I. INTRODUCTION

A. *Background and Procedural Posture*

Pursuant to Chief Administrative Law Judge ("ALJ") Moser's March 14, 2019 Prehearing Conference Memorandum, the Oregon Citizens' Utility Board ("CUB") hereby submits its Closing Brief in the above-captioned proceeding.

CUB respectfully requests that the Public Utility Commission of Oregon ("Commission") reject Portland General Electric's ("PGE" or "the Company") request in this matter. CUB joins the Staff of the Public Utility Commission of Oregon ("Staff") and the Alliance of Western Energy Consumers ("AWEC") in opposing the Company's request for Commission authorization to defer approximately $8 million in Level III storm damage restoration costs between January 11, 2017 and year-end 2017.[1]

[1] *See* UM 1817 – CUB/100/Gehrke/3, lines 17-18 *and* UM 1817 – Staff/100/Moore/1 *and* UM 1817 – AWEC/100/Hellman/2 at 9.

The Commission should not be persuaded by PGE's argument that granting its deferral application is appropriate and necessary.[2]

II. ARGUMENT

A. *The Commission should decline to exercise its discretionary authority to grant PGE's deferral application.*

The Commission should deny the Company's application under its discretionary authority to authorize deferrals as it does not meet the standard for authorization. The Commission's exercise of discretion considers two interrelated factors: the type of event that caused the deferral, and the magnitude of the event's effect.[3] All non-Company parties to this proceeding agree that storm-related restoration costs are a stochastic risk. Stochastic risks are generally not appropriate for deferral unless it is a natural variation and the financial magnitude of the events effect has a substantial harm.[4] The $8 million—or 36 basis points on PGE's authorized return on equity ("ROE")—is not substantial. The Commission should decline to authorize PGE's deferred accounting application.

1. *PGE's Opening Brief Fails to Demonstrate that the 2017 Level III Storm Costs Do Not Represent a Stochastic, Foreseeable Risk.*

As the party with the burden of proof in this matter, PGE has failed to provide requisite evidence to support its claim that its 2017 Level III storm costs represent a scenario risk. PGE unpersuasively argues that the 2017 Level III storm activity was an

[2] PGE's UM 1817 Opening Brief at 2 line 1.
[3] OPUC Order No. 05-1070 at 3.
[4] *In the Matter of Portland General Electric Company Application for an Order Approving the Deferral of Hydro Replacement Power Costs*, Docket No. UM 1071, Order No. 04-108 (Mar. 2, 2004); *see also* Order No. 05-1070 at 7; *see also* Docket No. UM 1623, Order No 16-253 at 4.

unforeseeable event and a scenario risk.[5] However, all parties except the Company agree the risk at issue is stochastic as it was previously modeled and forecasted in rates.[6]

In its Opening Brief, PGE asserts that the sheer number and severity of storms in 2017 was unforeseeable, and that Level III storms are "not reasonably predictable and quantifiable."[7] However, throughout the record in this proceeding, CUB and other parties have demonstrated that, while the severity of a storm may be difficult to predict, the costs could still be modeled and forecasted with some degree of accuracy.[8] This aligns with the Commission's own definition of a stochastic risk as one that "can be predicted to occur as part of the normal course of events."[9] In determining whether a risk is scenario or stochastic, the Commission will look to whether the event was modeled in rates and whether it was foreseeable.[10] While PGE attacks Staff's logic that Level III storm costs were modeled in rates and therefore represent a stochastic risk, it offers no persuasive evidence or arguments outside of general disagreement.[11]

PGE asserts that approval of its application in this matter is consistent with the Commission's prior treatment of storm costs.[12] However, the precedent PGE refers to, UM 1634, is not so aptly applied to the current docket. In that case, while PacifiCorp's application for deferred accounting was initially approved, the utility ultimately withdrew

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[5] PGE's UM 1817 Opening Brief at 15, lines 12-14.
[6] CUB's UM 1817 Opening Brief at 8; *also see* UM 1817 – CUB/100/Gehrke/5 lines 3-8; *also see* UM 1817 – Staff/100/Moore/8, lines 16-18; *and* UM 1817 – AWEC/100/Hellman/11, lines 15-21.
[7] PGE's UM 1817 Opening Brief at 9, lines 11-12 and 18.
[8] CUB's UM 1817 Opening Brief at 7; *see also* UM 1817—Staff/100/Moore/7, lines 15-17.
[9] UM 1817 – Staff/100/Moore/7, lines 15-17.
[10] *Id*.
[11] PGE's UM 1817 Opening Brief at 17, lines 13-15 ("PGE does not agree that an accrual mechanism with a 10-year average baseline should be classified as a form of "modeling" for the purposes of analyzing whether a discretionary deferral is warranted.").
[12] PGE's UM 1817 Opening Brief at 10, lines 6-9.

its application rather than seeking to amortize the costs as PGE is.[13] Additionally, the comparison to PacifiCorp is inapposite as the rolling ten-year average is unique to PGE since PacifiCorp self-insures its storm costs.[14]

PGE further attempts to compare all parties' stochastic analysis to Docket No. UM 1234, in which PGE's Boardman coal plant underwent an extended forced outage and the Commission found the event to be a scenario risk.[15] However, UM 1234 was a unique circumstance that is distinguishable from this proceeding. There, while outages were reflected in rates, the rates did not anticipate a massive event to occur in which a rotor cracked, and the plant was shutdown for 105 days.[16] PGE models Level III storm events and their restoration costs in rates. A cursory examination of PGE's Level III storm history demonstrates that the 2017 costs were not historically unprecedented.[17] The outage at issue in UM 1234 resulted from a truly catastrophic event that shut down a major plant for an unforeseeable amount of time. Here, the 2017 Level III storm costs are not even the largest that the Company has seen on its system.[18] PGE's attempted comparison is unavailing.

PGE argues that the logic that rendered the first Boardman outage as a scenario risk should also apply to the 2017 Level III storms.[19] As Order No. 07-049 notes:

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[13] *See* Docket No. UM 1634, Order No. 13-026

[14] *In the Matter of PacifiCorp, dba Pacific Power Request for a General Rate Revision*, Docket No. UE 217, Order No. 10-473 at 5-6.

[15] PGE's UM 1817 Opening Brief at 15, lines 15-20.

[16] *In the Matter of Portland General Electric Company Application for Deferred Accounting of Excess Power Costs Due to Plant Outage*, Docket No. UM 1234, Order No. 07-049 at 2. (hereafter OPUC Order No. 07-049).

[17] CUB's UM 1817 Opening Brief at 7.

[18] UM 1817 – Staff/100/Moore/13, lines 15-16 (Table 1, Data from PGE UE 319 Exhibit 804 Nicholson – Bekkedahl/1).

[19] PGE's UM 1817 Opening Brief at 16, lines 6-9.

> "if an event was modeled in rates, we evaluate whether the event was within a foreseen range of risk, or whether extenuating circumstances were involved that rendered the event unforeseeable."[20]

This framework enabled the Commission to determine:

> "that the nature, and the 105-day duration of the Boardman outage are unique, and that its occurrence is outside of the foreseen range of risk for forced outages."

An important distinction to make is the sheer size of the financial impact in this proceeding relative to the Boardman outage. The Boardman outage resulted in $45 million in excess power costs with a financial impact on the Company of approximately 255 basis points.[21] Meanwhile, the 2017 Level III storms cost the Company $8 million with a financial impact on the Company of only 36 basis points on PGE's ROE.[22] Not only is the risk at issue in this case markedly different than that contemplated in UM 1234, the magnitude of harm here is miniscule in comparison. As this Brief will further elucidate upon, 36 basis points is far too low to warrant Commission authorization.

Further, While the Commission did find that the Boardman outage was a scenario risk, and was outside the range of normal risk, the Commission did not enable PGE to defer the full amount:

> "If an event is deemed a scenario risk because it is outside a range of normal risk, we find that it is appropriate to apply a measure of normal risk when allocating, for deferral purposes, the costs associated with the event."[23]

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[20] OPUC Order No. 07-049 at 9.
[21] OPUC Order No. 07-049 at 5 (Staff's assessment that the Boardman Outage costs eligible for deferral had a financial impact of 255 basis points on PGE's ROE); *also see* pg. 1 (for the $45 million in excess power costs from Nov. 18, 2005 through Feb. 5, 2006.)
[22] CUB's UM 1817 Opening Brief at 9; *also see* UM 1817 – AWEC/100/Hellman/14, lines 5-7.
[23] OPUC Order No. 07-049 at 19.

The Commission then applied a deadband of 100 basis points to account for this normal risk and, in order to incent the utility to minimize costs, ordered it to "absorb 10% of the deadband-adjusted replacement costs."[24] The costs at issue in this docket represent 36 basis points of earnings. Even if logic of the Boardman deferral applied here, PGE's costs would not be sufficient magnitude to warrant deferral.

2. *The Amounts from the 2017 Level III Storms are not of a Sufficient Magnitude to Warrant Deferral.*

CUB joins all non-Company parties in continuing to believe that the approximately $8 million is simply not large enough to warrant Commission authorization. PGE argues that regardless of whether the risk is found to be a scenario or stochastic risk, its application meets the threshold for both a material and a substantial impact.[25] The Company notes that the $10.6 million in storm costs incurred in 2017 was more than five times the $2 million accrual in rates at the time.[26] Unfortunately for the Company, the impact of an event relative to what it recovers in rates does not factor into the Commission's calculus when it considers a deferral application. Rather, the Commission considers the total financial impact to the utility.[27] Here, that is 36 basis points, which is exceedingly minimal.

CUB, Staff, and AWEC all agree that PGE's 2017 Level III storm costs do not rise to a sufficient magnitude to warrant deferral by the Commission.

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[24] OPUC Order No 07-049 at 19-20. Note: The Commission adjusted this 100 point deadband down to 80 points to account for the tax effects associated with Oregon SB 408, which has since been repealed.
[25] PGE's UM 1817 Opening Brief at 19, lines 1-2.
[26] PGE's UM 1817 Opening Brief at 19, lines 3-4.
[27] CUB's UM 1817 Opening Brief at 9.

B. *Policy Considerations*

In addition to the arguments discussed above, CUB also highlights policy considerations that support the denial of PGE's deferral application. CUB emphasizes the importance of retaining existing precedent and the framework currently in place regarding the use and evaluation of deferrals.[28] Encompassed in the Commission's discretion to review deferred accounting is the understanding that deferred accounting is an extraordinary form of ratemaking that should only be allowed in limited and discrete circumstances.[29] CUB believes that the Commission's discretion should be exercised on a case-by-case basis and preserved for cases where the financial impact could be said to be material or substantial depending on the type of risk.[30] A decision to allow this deferral would open the door for PGE and other utilities to defer all manner of costs, regardless of the magnitude of harm.

Further, the continued expansion of PGE's deferred accounting presents cause for concern to CUB and AWEC. The seventeen different deferrals PGE currently has outstanding show that the once extraordinary ratemaking tool has become commonplace. This particular deferral, where the magnitude of harm is low, exemplifies the importance of protecting the Commission's discretion over deferrals.

Additionally, the information asymmetry that accompanies deferred accounting virtually guarantees that deferrals will be in the Company's favor. The history of deferrals has overwhelmingly favored shareholders, with only a few that benefit customers. Deferrals should be preserved for extraordinary instances.

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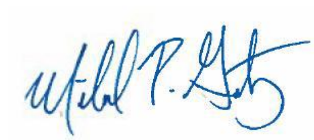
[28] CUB's UM 1817 Opening Brief at 11; *also see* UM 1817 – Staff/100/Moore/18, lines 3-5.
[29] CUB's UM 1817 Opening Brief at 11.
[30] CUB's UM 1817 Opening Brief at 11.

III. CONCLUSION

For the foregoing reasons, CUB respectfully requests that the Commission deny PGE’s application in this matter.

Dated this 27th day of June, 2019.

Respectfully submitted,



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