



Portland General Electric Company
121 SW Salmon Street • Portland, Oregon 97204
PortlandGeneral.com

February 24, 2017

Public Utility Commission of Oregon
Attn: Filing Center
201 High Street, S.E.
P.O. Box 1088
Salem, OR 97308-1088

RE: Advice No. 17-05, Schedule 134, Gresham Privilege Tax Payment Adjustment

Portland General Electric Company (PGE) submits this filing pursuant to Oregon Revised Statutes 757.205, 757.210 and 757.259 (1), and Oregon Administrative Rules 860-022-0025, 860-022-0030 and 860-022-0040, for filing proposed tariff sheets associated with Tariff P.U.C. No. 18, with a requested effective date of **May 1, 2017**:

Eighteenth Revision of Sheet No. 1-2
Twenty Ninth Revision of Sheet No. 100-1
Original Sheet No. 134-1

PGE makes this filing pursuant to ORS 757.259 (1) that authorizes the Commission to include such costs retroactively imposed by a government agency without requiring Commission approval for deferred accounting treatment. This is consistent with a decision of the Commission in the Public Meeting of July 28, 2009 regarding PGE Advice No. 08-16 Colstrip Tax and Royalty Payment Adjustment.

The purpose of this filing is to recover from Gresham customers the City of Gresham (Gresham) Privilege Tax payment of approximately \$7 million that PGE will make to Gresham for the privilege taxes assessed retroactively following an Oregon Supreme Court decision in 2016. The amount exceeds by 2% of gross revenues the previously imposed assessment of 1.5% on the applicable portion of customer bills in accordance with OAR 860-022-0040 during the period July 2011 to September 2016. Below PGE provides context—the history of the Gresham tax and the legal process that followed its adoption and challenge in the courts.

History of the Privilege Tax and Legal Process

In May 2011 Gresham adopted a resolution to increase utility license fees from 5% to 7%, notifying PGE that the increase would be effective July 1, 2011. The increase was an additional 2% of gross revenues from the then-current 1.5% to 3.5% effective July 1, 2011.

Because PGE believed that these utility license fees were privilege taxes within the meaning of ORS 221.450, and that Gresham's increase violated the limitation contained in that statute, PGE both implemented the additional 2% privilege tax on customer bills, starting July 1, 2011, and also filed for a declaratory judgment in the Multnomah County Circuit Court that the increase in the privilege tax was unlawful and preempted by ORS 221.450.

PGE argued to the court that the Gresham "utility license fee" was a privilege tax and, since PGE was operating in the city without a franchise (it had operated in the city with a license since 1992), the statute capped the amount of the privilege tax at five percent of gross revenues earned by the utility within the city. The Circuit Court agreed with PGE and ruled that the Gresham resolution for the additional 2% privilege tax was preempted by ORS 221.450. Following the Circuit Court decision, PGE stopped collecting the additional 2% tax from Gresham customers (January 13, 2012). Gresham then appealed and on July 2, 2014 the Oregon Court of Appeals reversed the Circuit Court ruling, deciding that PGE was not operating "without a franchise" and therefore ORS 221.450 did not apply to the "utility license fee" and did not limit Gresham's ability to charge the increased amount. In the interest of customers, PGE appealed this decision to the Oregon Supreme Court. On May 5, 2016, the Oregon Supreme Court affirmed in part and reversed in part the Court of Appeals ruling, holding that although the "utility license fee" was indeed a "privilege tax," ORS 221.450 did not unambiguously and expressly preempt the city from increasing it against PGE using its home-rule authority. PGE requested reconsideration of the Supreme Court ruling which was denied on July 14, 2016. The Oregon Supreme Court's judgment remanding the case for entry of judgment consistent with its ruling was entered in Multnomah County Circuit Court on August 18, 2016.

Taxes Collected and Arrearage

From July 1, 2011 to January 12, 2012, PGE collected the full 3.5% from Gresham customers in accordance with OAR 860-022-0040, and then, following the entry of the Supreme Court's judgment, collected the full 3.5% from Gresham customers starting September 1, 2016 going forward. The estimated additional amount collected from July 1, 2011-January 12, 2012 (\$783,545) was paid to Gresham in September 2016. The unpaid amount owed, net of that previously remitted, (\$6,983,739) will be paid to Gresham March 1, 2017, and is the amount to be collected from customers under Schedule 134. The proposed Schedule 134 percentage rate of 2.0% will recover from Gresham customers the approximate \$7 million amount over a period of about five years, before consideration of the amount of uncollectibles applied to Schedule 134 billings. The five year collection period is intended to roughly match the period of time in which PGE did not collect the tax from customers, January 2012 through August 2016.

PGE will not include any interest in the \$7 million we will pay to Gresham because whether any interest is due remains in dispute. PGE's position is that until final judgment is entered in Circuit Court, no interest accrues. Gresham, on the other hand, seeks to impose interest on the \$7 million back to 2011, despite the fact that until August 18, 2016, the only judgment in Circuit Court remained the judgment in favor of PGE. The Circuit Court has set a hearing for March 14, 2017 regarding that issue. At the time the amount of interest, if any, becomes known, and is paid to Gresham, PGE will add the interest to the accrual amount in the balancing account, and evaluate whether to adjust the applicable percentage rate or simply allow for a longer amortization period.

Filing Requirements

To satisfy the requirements of OAR 860-022-0025(2) and OAR 860-022-0030(1), PGE responds as follows:

PGE estimates that approximately 45,000 City of Gresham customers will be impacted by this overall annual increase of approximately \$1.5 million or 2.0% increase in revenues from the proposed Schedule 134. A typical Schedule 7 customer consuming 820 kWh monthly will see a bill increase of \$1.80 or 1.82% inclusive of rate schedules to which Schedule 134 does not apply.

Work papers detailing the amortization of the \$7.0 million and the development of the 2.0% rate are attached.

Should you have any questions or comments regarding this filing, please contact Marc Cody at (503) 464-7434.

Please direct all formal correspondence and requests to the following email address pge.opuc.filings@pqn.com

Sincerely,



Karla Wenzel
Manager, Pricing and Tariffs

Enclosures

**SCHEDULE 100
SUMMARY OF APPLICABLE ADJUSTMENTS**

The following summarizes the applicability of the Company's adjustment schedules.

Schs.	102 (1)	105	106 (1)	108 (3)	109 (1)	110 (1)	115	122	123 (1)	125 (1)	126	128 (4)	129 (1)	134	135	137	142	143	145	146	
7	x	x	x	x	x	x	x	x	x	x	x			x	x	x	x	x	x	x	x
15	x	x	x	x	x	x	x	x	x	x	x			x	x	x	x	x	x	x	x
32	x	x	x	x	x	x	x	x	x	x	x	x		x	x	x	x	x	x	x	x
38	x	x	x	x	x	x	x	x	x	x	x	x		x	x	x	x	x	x	x	x
47	x	x	x	x	x	x	x	x	x	x	x			x	x	x	x	x	x	x	x
49	x	x	x	x	x	x	x	x	x	x	x			x	x	x	x	x	x	x	x
75	x ⁽²⁾	x ⁽²⁾	x	x	x ⁽²⁾	x ⁽²⁾	x	x ⁽²⁾	x	x ⁽²⁾	x ⁽²⁾	x		x	x	x	x	x	x	x	x
76R	x		x	x			x							x			x				
83	x	x	x	x	x	x	x	x	x	x	x	x		x	x	x	x	x	x	x	x
85	x	x	x	x	x	x	x	x	x	x	x	x		x	x	x	x	x	x	x	x
89	x	x	x	x	x	x	x	x	x	x	x	x		x	x	x	x	x	x	x	x
90	x	x	x	x	x	x	x	x	x	x	x	x		x	x	x	x	x	x	x	x
91		x	x	x	x	x	x	x	x	x	x	x		x	x	x	x	x	x	x	x
92		x	x	x	x	x	x	x	x	x	x			x	x	x	x	x	x	x	x
95		x	x	x	x	x	x	x	x	x	x	x		x	x	x	x	x	x	x	x
485	x	x	x	x	x	x	x		x		x ⁽⁵⁾		x	x			x	x			
489	x	x	x	x	x	x	x		x		x ⁽⁵⁾		x	x			x	x			
490	x	x	x	x	x	x	x		x		x		x	x			x	x			
491		x	x	x	x	x	x		x		x		x	x			x	x			
492		x	x	x	x	x	x		x		x		x	x			x	x			
495		x	x	x	x	x	x		x		x		x	x			x	x			
515	x	x	x	x	x	x	x		x		x ⁽⁵⁾	x		x		x	x	x	x	x	x
532	x	x	x	x	x	x	x		x		x ⁽⁵⁾	x		x		x	x	x	x	x	x
538	x	x	x	x	x	x	x		x		x ⁽⁵⁾	x		x		x	x	x	x	x	x
549	x	x	x	x	x	x	x		x		x ⁽⁵⁾	x		x		x	x	x	x	x	x
575	x ⁽²⁾	x ⁽²⁾	x	x	x	x	x		x		x ⁽²⁾	x		x		x	x	x	x	x	x
576R	x		x	x			x							x			x				
583	x	x	x	x	x	x	x		x		x ⁽⁵⁾	x		x		x	x	x	x	x	x
585	x	x	x	x	x	x	x		x		x ⁽⁵⁾	x		x		x	x	x	x	x	x
589	x	x	x	x	x	x	x		x		x ⁽⁵⁾	x		x		x	x	x	x	x	x
590	x	x	x	x	x	x	x		x		x	x		x		x	x	x	x	x	x
591		x	x	x	x	x	x		x		x ⁽⁵⁾	x		x		x	x	x	x	x	x
592		x	x	x	x	x	x		x		x ⁽⁵⁾	x		x		x	x	x	x	x	x
595		x	x	x	x	x	x		x		x ⁽⁵⁾	x		x		x	x	x	x	x	x

(N)

(N)

- (1) Where applicable.
- (2) These adjustments are applicable only to the Baseline and Scheduled Maintenance Energy.
- (3) Schedule 108 applies to the sum of all charges less taxes, Schedule 109 and 115 charges and one-time charges such as deposits.
- (4) Applicable to Nonresidential Customer who receive service at Daily pricing (other than Cost of Service) or Direct Access (excluding service on Schedules 485, 489, 490, 491, 492 and 495).
- (5) Not applicable to Customers where service was received for the entire calendar year that the Annual Power Cost Variance accrued.

**SCHEDULE 134
GRESHAM RETROACTIVE PRIVILEGE TAX PAYMENT ADJUSTMENT**

PURPOSE

To recover from Customers in the City of Gresham the privilege taxes and, if court-ordered, associated interest amounts assessed retroactively by the City of Gresham following an Oregon Supreme Court decision in 2016.

APPLICABLE

All Customers receiving Electricity Service within the City of Gresham.

BALANCING ACCOUNT

The Company will establish a Balancing Account to record the difference between amounts collected under this schedule, net of uncollectible accounts and amounts authorized to be recovered. This Balancing Account will accrue interest at the Commission-authorized rate for deferred accounts. The disposition of any over- or under-recovery amount will be subject to Commission approval.

GRESHAM PRIVILEGE TAX SETTLEMENT RECOVERY RATE

The Rate is:

2.0% of the total billed amount to the Customer excluding the Public Purpose Charge (Schedule 108), Energy Efficiency Funding Adjustment (Schedule 109), Low Income Assistance Charge (Schedule 115) and all other separately stated taxes. Certain Large Nonresidential Customers with existing limitations on privilege tax obligations will be billed in accordance with these existing limitations.

**PORTLAND GENERAL ELECTRIC COMPANY
TABLE OF CONTENTS
RATE SCHEDULES**

Schedule Description

Standard Service Schedules (Continued)

- 88 Load Reduction Program
- 89 Large Nonresidential Standard Service (>4,000 kW)
- 90 Large Nonresidential Standard Service (>4,000 kW and Aggregate to >100 MWa)
- 91 Street and Highway Lighting Standard Service (Cost of Service)
- 92 Traffic Signals (No New Service) Standard Service (Cost of Service)
- 95 Street and Highway Lighting New Technology (Cost of Service)
- 96 Part Night Pilot For Street and Highway Lighting (Cost of Service)
- 99 Special Contracts

Adjustment Schedules

- 100 Summary of Applicable Adjustments
- 102 Regional Power Act Exchange Credit
- 105 Regulatory Adjustments
- 106 Multnomah County Business Income Tax Recovery
- 108 Public Purpose Charge
- 109 Energy Efficiency Funding Adjustment
- 110 Energy Efficiency Customer Service
- 115 Low Income Assistance
- 122 Renewable Resources Automatic Adjustment Clause
- 123 Decoupling Adjustment
- 125 Annual Power Cost Update
- 126 Annual Power Cost Variance Mechanism
- 128 Short-Term Transition Adjustment
- 129 Long-Term Transition Cost Adjustment
- 134 Gresham Retroactive Privilege Tax Payment Adjustment
- 135 Demand Response Cost Recovery Mechanism
- 137 Customer-Owned Solar Payment Option Cost Recovery Mechanism
- 142 Underground Conversion Cost Recovery Adjustment

(N)