

**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.

ORDER

DISPOSITION: APPLICATION DENIED

I. INTRODUCTION

On January 11, 2017, Portland General Electric Company (PGE) filed an application for deferred accounting of Level III storm-related restoration costs incurred from January 11, 2017, through the end of 2017 (2017 storm costs). Level III storm events are those impacting at least 50,000 customers, qualifying for Institute of Electrical and Electronics Engineers Major Event Day exclusion, or involving several substations or feeders out of service. In 2017, PGE experienced four Level III storms, resulting in \$10.6 million in storm costs,¹ with approximately \$10 million incurred between submission of the company's deferral filing on January 11, 2017, and the end of 2017. PGE seeks deferral of approximately \$8 million in 2017 storm costs, representing amounts incurred net of the \$2 million in base rates accrued to the company's storm reserve, for future ratemaking treatment.

II. BACKGROUND

A. Procedural Background

Oregon Public Utility Commission Staff, the Oregon Citizens' Utility Board (CUB), and the Alliance of Western Energy Consumers (AWEC) participated as parties in the proceeding. PGE filed direct testimony on March 27, 2019 and subsequently submitted revised direct testimony on April 12, 2019. Staff, CUB, and AWEC each filed response testimony on April 24, 2019. PGE submitted rebuttal testimony on May 13, 2019. The

¹ PGE/100, Nicholson-Bekkedahl/4. PGE initially reported \$11.4 million in total 2017 storm costs and later revised that figure to \$10.6 million.

parties waived cross examination of all witnesses. PGE and AWEC responded to bench requests on May 31, 2019. PGE, AWEC, and CUB filed responses on June 7, 2019. The administrative law judge issued a ruling closing the record on June 11, 2019. The parties submitted simultaneous opening briefs and simultaneous closing briefs on June 13, 2019 and June 27, 2019, respectively.

B. Factual Background

PGE collects an annual accrual in base rates for service restoration costs associated with Level III storms based on a rolling ten-year average of historic Level III storm costs, adjusted to present value. From 2011 through 2017, PGE's rates included an annual storm cost accrual of \$2 million. The company's current storm cost accrual is \$3.8 million per year pursuant to the stipulation adopted in PGE's most recent rate case based on the ten-year average from 2008 through 2017.² In the event storm funds collected exceed costs in a year, those funds are reserved for future Level III storm costs. While positive unspent balances in PGE's storm reserve carry forward to future years, negative balances are not carried forward under the mechanism.

III. LEGAL STANDARD

We review an application for deferral in two steps.³ In the first step of our review, we determine whether to exercise our discretion to grant the application, considering the type of event that caused the request for deferral and the magnitude of that event's effect on the utility. If, in our discretion, we find a requested deferral to be unwarranted, we may deny it without further consideration. If we find a deferral request to be justified, however, we must then determine whether the proposed deferral is legally authorized under ORS 757.259. ORS 757.259(2)(e) sets out a two prong test, in which the proposed deferred account must either minimize the frequency or fluctuations of rate changes or match the costs and benefits received by ratepayers.

Under our discretionary analysis, we examine the nature of the event, its impact on the utility, the treatment in ratemaking, and other factors to evaluate whether a deferred account is appropriate. The utility bears the burden of identifying the event and showing its significance.⁴ We examine the magnitude of the underlying event in terms of the potential harm. The type of event, whether it was foreseeable or not, will affect the

² *In the Matter of Portland General Electric Company, Request for a General Rate Revision*, Docket No. UE 335, Order No. 18-464 (Dec 14, 2018); PGE/100, Nicholson-Bekkedahl/3 n 3.

³ *In the Matter of Public Utility Commission of Oregon Staff Request to Open an Investigation Related to Deferred Accounting*, Docket No. UM 1147, Order No. 05-1070 at 2-3, 5, 7 (Oct 5, 2005).

⁴ The petitioning utility bears both the burden of persuasion and the burden of production in support of a deferred accounting request. "The burden of production shifts to other parties to present evidence that rebuts what an applicant presented. However, the burden of persuasion always rests with the applicant, regardless of opposition to the filing. Thus, for example, an applicant does not necessarily meet its burden merely by presenting un rebutted evidence." Order No. 05-1070 at 5-6 (Oct 5, 2005).

amount of harm that must be shown by the utility. If the event was modeled or foreseen, without extenuating circumstances, and determined to be a stochastic event, the magnitude of harm must be substantial to warrant our exercise of discretion in opening a deferred account. If the event was neither modeled nor foreseen, or if extenuating circumstances were not foreseen, and thus deemed a scenario event, then the magnitude of harm that would justify deferral likely would be lower (that is, material rather than substantial).

IV. RESOLUTION

A. Deferral Request

1. *Positions of the Parties*

a. PGE

PGE asserts that the company's request meets the Commission's discretionary criteria for authorizing a deferral. Specifically, PGE contends that Level III events in the Northwest are highly irregular in both timing and severity, and that due to the number and intensity of 2017 storms, the company incurred extraordinary costs to restore service to customers. PGE argues that due to the magnitude of these costs as compared to the amounts recovered in rates, these costs represent a scenario risk. PGE disputes CUB's assertion that the identification of storm risk in company's 2016 annual report means that storm events are a stochastic risk and contends the same logic would support a determination that a natural disaster such as an earthquake would be a stochastic risk.

PGE claims that Level III storm costs are not modeled in rates because the ten-year average is not stochastic modeling that would reflect all the factors associated with Level III storms, but is instead a proxy based on historical averages. PGE maintains that, even if the ten-year average of storm costs included in rates is treated as a modeling exercise, the analysis should still focus on the actual storm costs incurred in 2017. PGE states that the magnitude of 2017 Level III storm activity was not foreseeable based on the level of storm activity in the previous 20 years, but represents a one-in-18 years level of expense for Level III storm costs and included a one-in-25 years storm. PGE asserts that the 2017 storm costs are more than five times the ten-year average, and vastly exceed the upper bounds of that period, and thus cannot be fairly characterized as a distribution around the average. PGE asserts that the most recent ten years of storm costs do not capture the historical upper bound of storm cost risk, let alone a prospective upper bound in light of changing climate conditions. PGE additionally contends that zero cost years reduce the average, resulting in a ten-year average that does not reflect median storm costs in the last ten years in years when storms occurred.

PGE contends that the substantial costs incurred in 2017, following three consecutive years of significant storm costs that had depleted the company's storm reserve, fall outside the foreseen range of risk.

PGE argues that major storms are precisely the sort of unforeseeable event for which deferral is appropriate, as demonstrated by the Commission's approval of a closely analogous PacifiCorp storm cost deferral application in 2012.⁵ PGE asserts that the Commission's decision in docket UM 1634, authorizing deferral of PacifiCorp's storm costs before information about the extent of costs was available, demonstrates that financial impact is not the exclusive, or even most important consideration in evaluating a storm cost deferral.⁶ PGE claims that, in that case, the Commission did not evaluate the impact of those costs on the overall financial health of the utility, and that Staff and other intervenors did not argue for such an approach.

PGE maintains that an evaluation of the magnitude of the impact of the 2017 storm costs should be based on a comparison of relevant costs, and points to the transmission and distribution restoration costs included in the company's 2016 test year forecast of \$2 million for Level III events, \$1.8 million for Level I and II events, and \$14 million for non-weather-related restoration work. PGE states that its actual distribution operations and maintenance expense exceeded budget by \$18 million. Additionally, PGE asserts that the company's 2017 return on equity (ROE) was 7.90 percent, or 170 basis points below PGE's authorized ROE of 9.6 percent. The company argues that full recovery of the \$8 million storm deferral would result in an earned ROE of 8.26 percent, or 134 basis points below its authorized ROE for that period. PGE maintains that the company has under-earned its ROE in 23 of the last 32 years.

In response to the intervenors' arguments regarding the use of a threshold or deadbands in evaluating magnitude of impact, PGE argues that most of the cited orders relate to net power costs. PGE asserts that net power costs are distinguishable from storm events, and the Commission's adoption of deadbands in that context do not support a denial of the deferral here. PGE maintains that the highs and lows of net power costs theoretically have the potential to balance out, unlike storm costs under an asymmetrical mechanism. Further, PGE alleges that applying a deadband used for a different type of event would deviate from the Commission's practice of a fact-specific inquiry, examining both the nature of the event and its magnitude. PGE argues that due to the nature of storm restoration costs and PGE's obligation to incur them, a threshold is not appropriate.⁷

⁵ PGE Closing Brief at 1 (Jun 27, 2019) (citing *In the Matter of PacifiCorp, dba Pacific Power, Request for Deferred Accounting Order for Network Damage from November 2012 Storm*, Docket No. UM 1634, Order No. 12-489 (Dec 18, 2012)).

⁶ PGE Closing Brief at 6 (Jun 27, 2019) (citing Order No. 12-489 (Dec 18, 2012)).

⁷ PGE/200, Nicholson-Bekkedahl-Tooman/5-6.

PGE asserts that the deferral satisfies the statutory standard by appropriately matching the storm restoration costs with the benefits received by customers in 2017 associated with rapid restoration of service, and that absent deferral customers would receive service at a cost significantly less than that incurred by PGE.

PGE argues that full recovery of the 2017 storm costs would not create a disincentive to invest in the system, and that the company is proactively investing in its infrastructure to mitigate the impact of storm damage before it occurs. PGE contends that it has a rigorous process for risk assessment and long term planning in place that would not be affected by cost recovery for Level III storms. Additionally, the company asserts that the need to restore power as quickly as possible does not lend itself to cost containment measures like limiting overtime and contractor costs.

PGE states that, because the mechanism is asymmetrical, the company does not benefit from years with mild weather, but can be adversely impacted by years with severe Level III events. Specifically, PGE argues that the company cannot apply future accrual funds to make up for years in which the balance falls short, and that in such years the costs are absorbed by shareholders. PGE asserts that for most categories of costs, the company accepts the difference between actual amounts and test year forecasts as a level of business risk as part of its authorized ROE. The company maintains that under the storm accrual mechanism, in years when storm costs are below the accrual amount, those funds are reserved for future storm costs and cannot be used to offset other categories of costs or increase ROE. Thus, PGE asserts that it is not reasonable to conclude that the amount recovered in rates is intended to balance costs and revenues over multiple years. PGE argues that without deferred accounting, the company does not have a reasonable opportunity to recover its prudently incurred cost of service in years like 2017.

In response to CUB and AWEC's concerns regarding the number of PGE's existing deferral accounts, the company contends that all but two of the 17 deferrals are Commission-approved deferrals pertaining to one-time costs to implement directives imposed by statute or Commission order.

b. Staff

Staff argues that the 2017 storm costs do not meet the Commission's standard for deferred accounting. Staff asserts that Level III storm costs were modeled in rates and within a foreseen range of risk, and thus constitute a stochastic risk consistent with Commission precedent. Staff disputes PGE's position that a stochastic model must be used for these costs to be modeled, and contends that a deterministic model, like the use of a ten-year average, serves as reasonable approximation for modeling purposes, is easier to implement, and offers greater transparency.

Staff states that in PGE's most recent rate case, the 2017 storm costs were included in the ten-year average used to calculate the annual storm accrual collected in base rates.⁸ Staff argues that it is not consistent for PGE now to argue that these costs lie outside the normal range. Specifically, Staff contends that if the level of 2017 storm costs was so far outside the normal range as to warrant deferral, Staff would have recommended an adjustment to normalize the 2017 costs in calculating the ten-year average rather than supporting their inclusion. Staff argues that while the 2017 storm costs are high, they are not historically unprecedented based on a 23-year history. Staff states that there is wide variation in annual Level III storm costs from 1995-2017, and that the company incurred no Level III storm costs in 11 of the last 23 years. Staff asserts that there does not appear to be a trend of increasing costs, and that the average 2018 net present value cost of 1995-2017 is \$3.3 million, or under the amount of \$3.8 million currently collected in rates on an annual basis.

Staff maintains that under the Commission's standard, the classification of an event as stochastic or scenario may turn on a comparison of the costs of the event as compared to what the company recovers in rates for an event of that nature. However, Staff asserts that the analysis of whether the financial impact of the event warrants deferral is based on the impact to the utility considering all its costs and revenues. Staff notes that what financial impact is substantial versus material is not well defined, but that the Commission has defined the business risk that a company can be expected to absorb between rate cases as at least 100 basis points of the company's ROE.⁹ Further, Staff contends that the Commission has required utilities to absorb costs under this threshold no matter the categorization of the underlying event, and notes that in other orders the Commission has determined that a larger amount represents normal business risk.¹⁰ Staff argues that, regardless of whether the Level III storm costs are categorized as a stochastic or scenario risk, the financial impact of \$8 million in storm restoration costs, representing an impact to ROE of 36 basis points, is not sufficient to warrant deferral based on Commission precedent.

Staff acknowledges that the threshold for absorption of risk of storm costs might not be as high as for power costs, but argues that the Commission's orders addressing deferral of

⁸ Staff/100, Moore/16 (citing Order No. 18-464 (Dec 14, 2018)).

⁹ Staff Closing Brief at 3-4 (Jun 27, 2019) (citing *In the Matter of Portland General Electric Company Request for a General Rate Revision*, Docket No. UE 180, Order No. 07-015 at 18 (Jan 12, 2007)).

¹⁰ Staff Closing Brief at 4 (Jun 27, 2019). Staff cites to determinations that impacts of 100, 150, 172, and 250 basis points did not warrant deferral. Staff Opening Brief at 9-10 (Jun 13, 2019) (citing *In the Matter of Portland General Electric Company Application for Deferral of Hydro Replacement Power Costs*, Docket No. UM 1071, Order No. 04-108 (Mar 2, 2004)); *In the Matter of the Application of PacifiCorp for an Accounting Order Regarding Excess Net Power Costs*, Docket No. UM 995, Order No. 02-469 (Jul 19, 2002); *In re Portland General Electric Company*, Docket Nos. UM 1008, UM 1009, Order No. 01-231 (Mar 14, 2001); Order No. 07-015 (Jan 12, 2007); *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 (Feb 12, 2007).

power costs represents a general comparison of what the Commission has determined to be a reasonable risk for a company to absorb in a year.¹¹ Staff alleges that authorizing PGE's proposed deferral would shift the entire risk of these costs to customers, and that retaining a certain level of risk to the company is appropriate given that some level of risk is accounted for in PGE's authorized ROE.

Staff asserts that PGE's reliance on the Commission's authorization of a 2012 PacifiCorp storm cost deferral in docket UM 1634, Order No. 12-489, is misplaced.¹² Specifically, Staff contends that the Commission's review of that application did not take the amount at issue into account, and that the estimate of costs at issue was not available during the analysis. Staff additionally disputes that that order stands for the proposition that all costs for severe storms are deferrable regardless of financial impact. Staff states that in the PacifiCorp case, had the company not withdrawn its application, other parties would have still had the opportunity to argue that some or all of the costs should be absorbed by the company. Staff further contends that Staff's position in that proceeding was anomalous, and that in other cases regarding deferrals Staff recommendations have been based on an analysis of the underlying event and its financial impact.

Staff additionally disputes PGE's argument that Staff's position in opposing the deferral request is inconsistent with Staff's opposition to modifying the storm cost reserve to include a negative balance in UE 319.¹³ Staff maintains that Staff's position has always been that PGE may seek to defer extraordinary Level III storm costs, but argues that the costs in this request are not extraordinary.

Lastly, Staff does not dispute that the instant request satisfies the statutory criteria of appropriately matching costs with benefits.

c. AWEC

AWEC argues that PGE's deferral request does not meet the Commission's discretionary standard. AWEC states that PGE has incurred some amount of Level III costs in nine of the past 20 years, nearly every other year. AWEC asserts that the storm accrual in base rates is based on the historical average, which is based on this stochastic distribution.

AWEC contends that regardless of whether storm costs are deemed a stochastic or scenario risk, the amount PGE seeks to defer here does not constitute a significant enough financial impact to warrant deferral. AWEC asserts that the 36 basis point ROE impact of the 2017 storm costs is far less than the 100 basis points materiality threshold that AWEC argues the Commission set in determining the level of costs eligible for

¹¹ Staff/100, Moore/11-12.

¹² Staff Closing Brief at 6 (citing Order No. 12-489 (Dec 18, 2012)).

¹³ Staff/100, Moore/14.

deferral related to a scenario event.¹⁴ Additionally, AWEC states that the Commission has found that an impact of 86 basis points was well within the bounds of acceptable risk for a stochastic risk.¹⁵ AWEC disputes PGE's position that the Commission's prior deferral orders regarding deferral of power costs are inapplicable to deferral of storm costs and argues that the deadbands the Commission applied in prior power cost deferral cases are numerical representations of the Commission's existing standard of what constitutes material or substantial impacts.

AWEC asserts that the Commission's long standing deferral standard allows utilities to recover costs that genuinely threaten their financial health, while protecting ratepayers from cost variations within the range of normal business risk for a company. AWEC contends that PGE is requesting deferral of an amount with very little impact on the company's overall financial health, which would be inconsistent with the Commission's practice of only allowing a deferral of expenses with either a substantial or material impact. AWEC argues that PGE is now proposing a relaxed deferral standard that would shift the risk of specific expenses to ratepayers, including those within the range of acceptable risk between rate cases. AWEC alleges that the number of PGE's current deferrals is relevant to show that the company has sought deferrals for many new costs, shifting risk from shareholders. AWEC further maintains that deferrals are an exceptional ratemaking tool that should be used sparingly.¹⁶

AWEC contends that the Commission should continue to evaluate deferral requests based the financial impact on the utility as a whole. However, AWEC argues that if the Commission decides instead to analyze the impact of the 2017 storm costs relative to historic storm costs, that examination should be based on an analysis of whether the costs are extreme based on a threshold.¹⁷ AWEC asserts that some amount above the \$2 million is normal risk that should be absorbed by the company, and that this amount should be excluded from deferral.

AWEC asserts that, contrary to PGE's position, the PacifiCorp storm deferral in docket UM 1634 did not establish a different standard for storm deferrals.¹⁸ AWEC states that that order did not set forth an alternative standard of review from the one established in the Commission's generic investigation regarding the deferral standard. AWEC argues that that order was not a product of a contested case proceeding and involved the adoption of a Staff recommendation at an open meeting.

¹⁴ AWEC/100, Hellman/14 (citing Order No. 07-049 (Feb 12, 2007)).

¹⁵ AWEC/100; Hellman/13 (citing *In the Matter of Portland General Electric Company Application for Deferral Accounting of Excess Pension Costs and Carrying Costs on Cash Contributions*, Docket No. UM 1623, Order No. 16-257 (Jul 7, 2016)).

¹⁶ AWEC Opening Brief at 16 (Jun 13, 2019).

¹⁷ AWEC/100; Hellman/18-20.

¹⁸ AWEC Closing Brief at 7 (citing Order No. 12-489 (Dec 18, 2012)).

AWEC disputes PGE's position that without deferral the company will not have the opportunity to recover its prudently incurred costs over time, and contends that PGE can recover those costs when the total effect of rates is considered. AWEC argues that ratemaking assumes a certain amount of variability in costs between rate cases, and that if companies can avoid cost risk via deferrals, it would be necessary to reassess assumptions regarding cost variability in ratemaking, including the reasonable rate of return as it relates to compensation for risk between rate cases. AWEC asserts that the purpose of setting rates is to provide a company with sufficient revenue overall to have the opportunity to earn its overall ROE. AWEC maintains that PGE already has a storm mechanism that reduces its risk related to these storm costs and that appropriately balances customer and utility risk.

AWEC asserts that, even for events that are outside a company's control, like weather, utilities are not powerless to manage potential costs—for example, by hardening their facilities, vegetation management, and undergrounding where appropriate. AWEC argues that, to the extent the company has exposure to costs, it will continue to take actions to mitigate their occurrence, but asserts that the company has not shown it would make the same investments if this risk was eliminated or reduced. AWEC argues that requiring PGE to bear a reasonable level of storm restoration costs encourages economically efficient behavior. AWEC contends that PGE's position on the policy that should be encouraged by deferral is contradictory. Specifically, AWEC states that PGE asserts deferral would encourage the company to prioritize prompt and prudent restoration of service, but the company also argues that it would not modify its storm response if there was the potential benefit of a deferral available. AWEC maintains that PGE already has an obligation to promptly restore service and an added incentive is unnecessary.

AWEC argues that PGE has not met its burden to demonstrate that deferral satisfies the statutory standard. Specifically, AWEC contends that the company has not addressed how deferral of the 2017 storm costs would minimize the frequency of rate changes or appropriately match the costs borne by and benefits received by ratepayers.

Finally, AWEC argues that the Commission has previously stated an openness to consider a deferral of 2017 storm costs if the costs were shown to be extreme or a result of climate change causing greater storm intensity.¹⁹ AWEC contends that PGE neither demonstrated the former, nor addressed the latter in this proceeding. AWEC asserts that if the Commission seeks to examine the connection between storm costs and climate change, it should do so in a separate docket.

¹⁹ AWEC/100; Hellman/2 (citing Order No. 18-464 at 14 (Dec. 14, 2018)).

d. CUB

CUB maintains that storm risk is part of the normal course of risks anticipated by the company, or a stochastic risk, and that PGE has not demonstrated the 2017 storm costs represent a scenario risk. In support of its position, CUB states that PGE clearly presented storm risks to investors in the company's 2016 annual report in identifying storms and other natural disasters as having the potential to damage facilities, interrupt service, and reduce revenues. CUB disputes PGE's asserted comparison between the 2017 storm costs and the extended outage at the Boardman coal plant that the Commission determined was a scenario event.²⁰ CUB argues that unlike the Boardman outage, the 2017 storm costs were not historically unprecedented.

CUB states that, contrary to PGE's assertions, the Commission evaluates the impact of an event based on the total financial impact to the company and not in comparison to what the company recovers in rates. CUB maintains that the ROE impact of the 2017 storm costs was 36 basis points, which is not significant enough to justify deferral. CUB also contends that the company has consistently increased its dividends to investors since 2009, and thus denial of this deferral would not substantially affect investors. CUB argues that, even in allowing deferral of the Boardman outage costs, the Commission applied a deadband of 100 basis points to account for a normal level of risk, and asserts that, applying the same logic here, PGE's 2017 storm costs are not of a sufficient magnitude to warrant deferral. CUB urges that if the Commission determines that years with high Level III storm costs constitute a scenario risk, a 100 basis point threshold would be appropriate.

CUB disputes PGE's position that the Commission's initial authorization of deferral accounting for storm costs for PacifiCorp in UM 1634 is applicable to this proceeding. CUB contends that PacifiCorp self-insures its storm costs, and that in that case the company ultimately withdrew its application rather than seeking to amortize the costs.

CUB asserts that deferred accounting should be preserved for extraordinary circumstances and emphasizes the importance of retaining the existing framework for evaluating deferrals. CUB argues that approval of this deferral would expand the standard to all manner of costs, regardless of magnitude, and expresses concern over PGE's number of outstanding deferrals.

2. Resolution

PGE argues that the Level III storm costs are not modeled in rates because the ten-year average used to determine the Level III storm accrual amount collected in rates is simply a proxy and that the level of 2017 storm costs experienced by the company was not

²⁰ CUB Closing Brief at 6 (Jun 27, 2019) (citing Order No. 07-049 at 5 (Feb 12, 2007)).

foreseeable. However, whether an event is modeled in rates does not hinge on the use of a specific type of modeling. Rather, the relevant inquiry is whether the event at issue was taken into account in establishing rates or was otherwise foreseeable. The likelihood of the company incurring some costs associated with Level III storms was accounted for via the annual accrual for costs associated with Level III storms included in rates, demonstrating that some level of these costs was foreseen.

We must, however, determine whether the 2017 storm costs were foreseen or predictable within the forecast range of probability.²¹ In doing so, we have previously examined whether an event falls within a reasonable deviation range around the level forecast in rates.²² Here, while the level of 2017 storm costs is outside the range of costs used to establish the accrual in docket UE 215 (that is, 2000-2009), it is within the range of costs experienced by the company since 1995, and thus is not historically unprecedented.²³ Further, the 2017 storm costs were not so extraordinary as to be excluded from the ten-year average Level III storm costs used in establishing the accrual level in the company's most recent rate proceeding.²⁴ We agree with Staff that had the 2017 costs been truly extraordinary it would not have been appropriate to include them in the ten-year average used to establish the annual accrual in current rates. We also consider whether the depletion of PGE's storm reserve by above-average storms in 2014 through 2017, causing the company to absorb \$11,889,557²⁵ in the three-year period from 2015 to 2017, constitutes extenuating circumstances warranting the finding of a scenario event. Although we recognize the potential for multiple years of above-average storm costs to rise to an extraordinary level, we do not find the instant circumstances sufficiently extraordinary as to constitute a scenario event.²⁶

PGE contends that the Commission authorized a similar PacifiCorp storm cost deferral request in 2012 without evaluating the impact on the overall financial health of the company, and asserts that financial impact is not determinative, nor even the most important consideration in evaluating a deferral regarding storm costs.²⁷ However, as

²¹ See Order No. 07-049 at 9 (Feb 12, 2007).

²² See Order No. 07-049 at 9-10 (Feb 12, 2007).

²³ *In the Matter of Portland General Electric Company Request for a General Rate Revision*, Docket No. UE 215, Staff/402, Ball/1 (Jun 4, 2010).

²⁴ Order No. 18-464 (Dec 14, 2018); Staff/100, Moore/16.

²⁵ Comprised of \$785,476 in Level III storm costs in 2015, \$2,504,081 in 2016, and the \$8.6 million in Level III storm costs above the annual accrual in 2017. *In the Matter of Portland General Electric Company, Request for a General Rate Revision*, Docket No. UE 319, PGE/803, Nicholson-Bekkedahl/2 (Feb 28, 2017).

²⁶ *Cf. In the Matter of Idaho Power Company for an Order Approving Deferred Accounting for Certain Costs*, UM 480, Order No. 92-1130 at 1-3 (Aug 5, 1992) (deferral authorized where company experienced six consecutive years of drought conditions); *In the Matter of the Application of Idaho Power Company for Deferral of Excess Power Costs*, UM 673, Order No. 94-1111 at 1-3 (Jul 14, 1994) (deferral granted where company experienced eight consecutive years of drought conditions and one of the worst water years on record in the Snake River).

²⁷ PGE Closing Brief at 6 (Jun 27, 2019) (citing Order No. 12-489, Appendix A (Dec 18, 2012)).

noted by the intervenors, that approval was not the result of a contested case and did not create a new standard of review. In that instance, we accepted a Staff recommendation at a public meeting. Here, we are reviewing PGE's request in the context of a contested case, with a detailed evidentiary record. The Commission established its generally applicable deferral standard in the generic investigation in docket UM 1147.²⁸ This standard governs our analysis of storm cost deferrals. As part of this analysis, we examine the magnitude of the underlying event in terms of the potential harm to the company.

Further, we have recently recognized the continued importance of the magnitude of harm in our standard in discussing the potential availability of deferral for Level III storm costs specifically.²⁹ We require a utility to demonstrate material or substantial financial harm in order to justify deferral for the same reason that we have allocated costs that are eligible for deferral between a utility's shareholders and its ratepayers: to ensure that ratepayers are responsible only for extraordinary costs and that utilities receive incentives to minimize costs.³⁰ That reasoning is as applicable to storm costs as to other types of expense. It is imperative that cost recovery for storm events preserve some risk on the company as incentive to invest in hardening infrastructure and implement measures that will promote cost containment even under storm response circumstances.

Under the Commission's deferral standard, we have found that, for an application based on a stochastic risk, deferral is warranted only if the financial magnitude is substantial, whereas deferral of a scenario events is appropriate only if the financial effect is material. While PGE contends that this determination should be based on a comparison of related costs, we are not persuaded to depart from our historical approach. The relevant inquiry remains the financial impact on the company as a whole. Here, the impact of the \$8 million 2017 storm costs proposed for deferral on PGE's 2017 earned ROE is 36 basis points. We note that PGE did not address whether the 36 basis point impact on the company was material or substantial.³¹ An impact of 36 basis points on ROE is well within the range of risk a company can be expected to absorb between rate cases.³² We find the financial impact of 36 basis points on PGE's ROE is neither substantial nor material, and is thus insufficient to warrant deferral for either a stochastic or scenario

²⁸ See Order No. 05-1070 (Oct 5, 2005).

²⁹ See Order No. 18-464 at 14 (Dec 14, 2018).

³⁰ See Order No. 07-049 at 18 (Feb 12, 2007).

³¹ Instead PGE argued that even with deferral and full recovery of the \$8 million in 2017 storm costs, the company's earned ROE would be 8.26 percent, or 134 basis points below its authorized ROE for that period (focusing on the impact of PGE's non-Level III storm costs on its ROE in 2017). PGE/100, Nicholson-Bekkedahl/14; PGE/200, Nicholson-Bekkedahl-Tooman/19; PGE Opening Brief at 5 (Jun 13, 2019); PGE Closing Brief at 7 (Jun 27, 2019).

³² See Order No. 07-049 at 19 (Feb 12, 2007). (determining that 100 basis points was appropriate level of normal business risk to apply relative to a scenario event); Order No. 16-257 at 4 (Jul 7, 2016) (finding financial impacts of 18 and 86 basis points to be well within the bounds of acceptable risk between rate cases and denying deferral for pension costs).

event. Accordingly, we deny PGE's request for deferral accounting for the 2017 Level III storm costs. Given this conclusion we need not address whether the application satisfies the requirements of ORS 759.259(2)(e).

We acknowledge the combined effect of the asymmetrical storm fund and the unpredictable nature of severe storm events, and find the circumstances underlying this application warrant further discussion. Here, multiple years of above average storm costs depleted the company's reserve and caused the company to absorb storm costs beyond the annual accrual amount in 2015, 2016, and 2017.³³ Absent an extraordinary event warranting deferral, the company will bear the risk of all such costs under the current storm mechanism. We recognize that an increase in storm frequency and intensity resulting from climate change could increase these risks in the future.³⁴ However, the Commission's deferral mechanism is not the appropriate ratemaking mechanism to address the more moderate risks resulting from the year-to-year effect of the storm mechanism. Rather, this potential issue is more appropriately addressed by taking up revisions to the company's storm mechanism. The Commission's intention is that deferral will remain available for those extraordinary events of the magnitude historically warranting deferral.

Currently in base rates PGE collects an annual accrual of \$3.8 million dedicated to Level III storm costs, meaning that the first \$3.8 million in Level III storm costs in any year are recovered entirely from ratepayers. Because those funds are earmarked for storm costs, PGE does not benefit from the use of any unspent funds in a given year to offset other costs or increase earned ROE; unspent funds insulate the company from the first \$3.8 million in costs in any year with Level III storms. Additionally, in years when the company experiences no Level III storms, the funds accrue in the storm reserve and provide for recovery of costs above the accrual amount level in subsequent years.³⁵ It is not until the storm fund is depleted and the costs of storms in the following year exceed the annual accrual that the company bears any risk for Level III storm costs. We have previously emphasized the importance of a utility bearing some risk associated with storm costs as an incentive to invest in hardening infrastructure and implement measures that will achieve cost containment even under storm response circumstances. Thus, we find it appropriate for the company to continue to bear some risk for these costs.

In the company's last rate proceeding, we rejected PGE's proposal to implement a symmetrical, uncapped storm reserve, but invited the company to submit a proposal with more justification in a future proceeding.³⁶ We have previously stated that, in evaluating

³³ *In the Matter of Portland General Electric Company, Request for a General Rate Revision*, Docket No. UE 319, PGE/803, Nicholson-Bekkedahl/2 (Feb 28, 2017).

³⁴ See Order No. 18-464 at 14 (Dec 14, 2018).

³⁵ See *In the Matter of Portland General Electric Company, Request for a General Rate Revision*, Docket No. UE 319, PGE/803, Nicholson-Bekkedahl/1-2; PGE/804, Nicholson-Bekkedahl/1 (Feb 28, 2017).

³⁶ See Order No. 18-464 (Dec 14, 2018).

any future storm recovery mechanism, the Commission expects a holistic plan that balances recovery of costs from more frequent high-impact events with incentives for investments and practices that mitigate the negative consequences from those events. Specifically, in proposing any future alternate storm mechanism that would increase the company's recovery of Level III storm costs, we directed PGE to fully address the allocation of risk with customers and company incentives for developing a more resilient system. In the company's next rate case, we are prepared to consider how to appropriately allocate the risk associated with the cumulative effect of multiple years of above-average storm costs as well. We expect that any future storm mechanism proposals should address the issues and anticipate that PGE's storm fund mechanism will be fully addressed in the company's next rate case, consistent with the expectations outlined in docket UE 335 and this order.³⁷

B. Storm Accrual in Base Rates

1. Parties' Positions

PGE acknowledges that the ten-year average for Level III storms included in base rates is overstated by \$100,000. PGE proposes that this amount remain in the storm fund accrual until the company's next rate case based on the relatively small amount involved, and because these funds can only be used for future storm costs. However, PGE states that Company does not object to an annual deferral if the amount of the over-recovery is deemed significant by Commission. The company contends that the Commission should address the \$100,000 consistently with its treatment of the company's 2017 Level III storm cost deferral request.

AWEC argues that based on the corrected 2017 storm cost figure, the ten-year average is \$3.7 million rather than the \$3.8 million currently recovered in base rates annually. AWEC proposes setting a minimum balance on the Level III storm accrual account of \$100,000 as of January 1, 2020, and increasing monthly based on the annual accrual plus interest. AWEC proposes that any amount below this minimum balance would not be spent for Level III storm response, and that the company would bear all other costs. CUB agrees with this approach and asserts this would accurately capture the costs incurred by customers until the company's next rate case. Additionally, Staff supports AWEC's proposed method.

2. Resolution

In docket UE 335, the Commission approved a stipulation that provided for an annual storm accrual amount of \$3.8 million, based on a ten-year average of Level III costs for the years 2008 through 2017. During the course of this proceeding, PGE discovered that

³⁷ See Order No. 18-464 (Dec 14, 2018).

the company had miscalculated the ten-year average, inadvertently overstating the amount by \$100,000. The corrected ten-year average for the years 2008 through 2017 is \$3.7 million.³⁸ The intervenors support addressing this error by establishing a minimum balance to the storm reserve based on the ongoing accrual of \$100,000 per year plus interest until the company's next rate case.

In a rate proceeding, the Commission establishes just and reasonable rates for the company based on a forecast of total revenue needs; our ratemaking formula is not intended to determine a single precise result.³⁹ Under this practice, "[e]rrors to the detriment of one party may well be canceled out by countervailing errors or allowances in another part of the rate proceeding."⁴⁰ Accordingly, so long as the resulting rates are just and reasonable, the Commission will not revisit specific calculations or rate elements between rate proceedings. Accordingly, we decline to require any adjustments to the storm reserve or accrual. Further, we find that the magnitude of the impact of this error is not sufficient to warrant addressing via deferral accounting.

V. ORDER

IT IS ORDERED that Portland General Electric Company's request to defer costs associated with Level III storm-related restoration costs incurred from January 11, 2017, through December 31, 2017, pursuant to ORS 757.259(2)(c) is denied.

Made, entered, and effective Aug 19 2019.



Megan W. Decker
Chair




Stephen M. Bloom
Commissioner



Letha Tawney
Commissioner

A party may request rehearing or reconsideration of this order under ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-001-0720. A copy of the request must also be served on each party to the proceedings as provided in OAR 860-001-0180(2). A party may appeal this order by filing a petition for review with the Court of Appeals in compliance with ORS 183.480 through 183.484.

³⁸ AWEC/100, Hellman/22; PGE/200, Nicholson-Bekkedahl-Tooman/19.

³⁹ *In re Portland General Electric Company*, Docket Nos. DR 10, UE 88, UM 989, Order No. 08-487 at 7, 22 (Sept. 30, 2008).

⁴⁰ Order No. 08-487 at 22(Sept. 30, 2008) (quoting *Duquesne Light Co. v. Barasch*, 488 US 299, 314 (1989)).