



**Portland General Electric Company**  
*Legal Department*  
121 SW Salmon Street • Portland, Oregon 97204  
(503) 464-8926 • Facsimile (503) 464-2200

**Douglas C. Tingey**  
*Associate General Counsel*

November 13, 2012

***Via Electronic Filing and U.S. Mail***

Oregon Public Utility Commission  
Attention: Filing Center  
550 Capitol Street NE, #215  
PO Box 2148  
Salem OR 97308-2148

**Re: UM 1623 – APPLICATION FOR DEFERRED ACCOUNTING OF EXCESS  
PENSION COSTS & CARRYING COSTS ON CASH CONTRIBUTIONS**

Attention Filing Center:

Enclosed for filing in UM 1623 is an original and five copies of:

Reply Comments of Portland General Electric Company

This document is being filed by electronic mail with the Filing Center. An extra copy of the cover letter is enclosed. Please date stamp the extra copy and return to me in the envelope provided.

This document is being electronically served upon the UM 1623 service list.

Thank you in advance for your assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "D. C. Tingey", is written over a faint, larger version of the signature.

Douglas C. Tingey  
Associate General Counsel

DCT:smc  
Enclosures  
cc: Service List-UM 1623

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

**UM 1623**

In the Matter of	)	
	)	
PORTLAND GENERAL ELECTRIC	)	REPLY COMMENTS OF PORTLAND
	)	GENERAL ELECTRIC COMPANY
Application for Deferral Accounting of	)	
Excess Pension Costs and Carrying Costs on	)	
Cash Contributions	)	
_____	)	

Pursuant to OAR 860-027-0300(8), Portland General Electric (“PGE”) submits these reply comments in this matter.

PGE filed this deferral application on August 22, 2012, requesting deferral for later ratemaking treatment of excess FAS 87 pension expense and carrying costs on cash contributions to its pension. PGE explained that its FAS 87 pension expense has increased significantly and is expected to remain above current recovery through 2018. As discussed, discount rates have decreased dramatically over the last couple of years (from 6.5% to 4.4%) and market returns have underperformed relative to PGE’s expected rate of return during the last several years (for example, 3.7% in 2011).

In addition, PGE explained the significant financial impact of the cash contributions to its pension plan required by the Pension Protection Act of 2006. As a result of these requirements PGE has made cash contributions of \$56 million in recent years, and anticipates contributing an additional \$182 million over the next ten years. PGE’s application further explained that these required cash contributions in excess of FAS 87 pension expense create a prepaid asset that is

expected to revert to zero over time. The request in this docket is for deferral of the carrying costs associated with this prepaid asset.

The estimated amount that would be deferred under this application is \$12.9 million for 2012. Pension expenses are expected to be significantly higher than the levels currently assumed in rates until 2018.

### **DISCUSSION**

The Citizens Utility Board (“CUB”) and the Industrial Customers of Northwest Utilities (“ICNU”) have taken the unusual approach of arguing that the Commission should dismiss this deferral application out of hand, without further inquiry or development of a record. That would not be appropriate as a general matter. Such a decision should be based on a sufficient evidentiary record. And as explained below, such an outcome is not appropriate in this specific instance.

What has caused the significant increase in pension costs? Discount rates have decreased dramatically over the last couple of years (from 6.5% to 4.4%) and market returns have underperformed relative to PGE’s expected rate of return during the last several years (for example, 3.7% in 2011). These events have contributed to the considerable increase in PGE’s pension expense, and require PGE to invest its cash into the pension without the opportunity to recover its carrying costs. This has happened despite PGE’s management of pension assets that has generated returns that were in the top quartile of similar plans over the past five years. Application, p. 3. Recent years, called by some the Great Recession, have seen very slow economic growth, and persistently low interest rates and low returns on investments. These are the primary causes of the increased FAS 87 expense.

In addition, the Pension Protection Act of 2006 introduced new funding requirements for pension plans such as PGE's. This, coupled with the dramatic declines in discount rates and underperforming assets, has required PGE to contribute \$56 million to its pension plan since 2010. As set out in PGE's Application, PGE anticipates contributing an additional \$182 million over the next ten years. PGE has not sought deferral of the cash contributions themselves. Rather, PGE has requested deferral of the carrying costs of such deferrals, and has proposed a balancing account that would track the cash contributions made in excess of the FAS 87 pension expense. As cash contributions taper off in the future, this account is expected to revert to zero. The requested deferral would just recognize the time value of the money PGE is required to contribute over this time period.

Deferral is appropriate. It should be noted that CUB argued in the recently concluded Northwest Natural Gas ("NWN") rate case that NWN could not recover certain pension expenses because NWN had not filed a deferral application. Yet here, where PGE has filed a deferral application, CUB argues that deferral is not appropriate, with ICNU following suit. This argument is inconsistent at best.

CUB and ICNU claim that PGE's deferral application is a request for single issue ratemaking and should therefore be denied. By its very nature, ORS 757.259 specifically allows deferral of specific costs such as those identified in PGE's application. This statute gives the Commission the authority and discretion to defer specific costs or revenues. PGE's application meets the requirements of ORS 757.259, and should be granted.

ICNU claims that the risk that pension expense may exceed the amount forecast in rates is "just part of the normal regulatory process." However, the severe negative economic and

financial conditions in recent years were not foreseen, and not within normal variation to be expected. Many utility pensions, and other pensions, are seriously underfunded because of recent financial markets. As is often the case in deferrals, the size of the variance matters – in this case the variance between the financial conditions projected to exist at the time of the rate case (UE 215), and the size of the financial impact on PGE due to the Great Recession and increased pension funding requirements, were not within normally expected variation.

Ratemaking projections. CUB and ICNU both make arguments based on the stochastic v. scenario language in Commission Order No. 04-108. It should be noted that while the Commission said those distinctions may be useful, they were not a change in the Commission's practices. To the extent that analysis is applicable, the events leading up to this deferral qualify as a scenario risk. As discussed above, the magnitude of change in the financial market conditions was not susceptible to prediction. This was not normal variability. This was events in the financial sector that led to significantly decreased earnings on assets and substantially lower discount rates, leading to the much higher pension expense and need for cash contributions. It is concerning that CUB and ICNU would make such arguments, and even more concerning that they would urge the Commission to adopt such arguments without any evidence in the record.

It is also concerning that ICNU and CUB would argue that a \$12.9 million financial impact on PGE in 2012, with additional significant impacts in future years, is too small to warrant consideration by the Commission. That is a significant financial impact, and one that has fallen on PGE through no action of its own but merely by the impact of financial markets and pension regulations. The Application, at a minimum, deserves additional examination.

Statutory requirements. ICNU claims PGE's application has not met the statutory requirement of minimizing rate changes or appropriately matching costs and benefits. That is simply untrue. PGE has explained that pension expenses in 2012 and succeeding years will be significantly higher than the projections used to set rates. Deferring the FAS 87 costs, and the carrying costs on cash contributions in excess of FAS 87 requirements – expenses that PGE will incur in 2012 and succeeding years – will do just that, appropriately match costs and benefits in those years.

Deferral will also minimize rate changes. If, as CUB and ICNU seem to argue, these expenses must be dealt with in a general rate case, then that will give PGE further need to file such a case.

Earnings. CUB's and ICNU's comments also address an earnings review on this deferral. The deferral statute does provide for an earnings review. The Commission can, and should, as part of the amortization phase of this deferral, conduct an appropriate earnings review of the deferred FAS 87 expense. However, that may not be the case for the balancing account for the carrying costs of cash contributions in excess of FAS 87 expense. The proposed balancing account "is expected to revert to zero over time as cash contributions eventually taper off and PGE continues to incur FAS 87 expense." Application, p. 3. This is expected to happen over the normal course of funding the pension as required by the Pension Protection Act. Such a deferred account is very much like a balancing account that has an expectation of balancing to zero over time. In that situation, where the balancing will occur over many years, an earnings review is less appropriate. Further, the legislature recognized that when it stated that earnings reviews are not required for automatic adjustment clauses. ICNU accuses PGE of putting form

over substance. That is not the case. ICNU has, however, ignored the substance of the request — this is a balancing account that has every expectation of reverting to zero over time.

ICNU continues its discussion of earnings by pointing out that PGE's 2011 power costs were low enough to cause a refund through the PCAM. This argument is misguided. Earnings in 2011 are not relevant to a deferral of 2012 costs. As discussed above, the deferral statute provides for a review of earnings during the deferral period prior to amortization of any amounts deferred. 2011 is not in the deferral period.

Other arguments. CUB also argues that this application is premature because the Commission has stated in its recent order in the NWN rate case that it will be opening a generic docket to address pension issues. That argument is particularly concerning where CUB has just argued at length that NWN could not recover pension expenses because NWN had not filed a deferral application. It is inherently inconsistent for CUB to argue that NWN should have filed a deferral some years ago, and at the same time argue that PGE's deferral application now is premature.

Staff recommendation. Staff has recommended that the Commission delay its investigation into this application "while the generic investigation moves forward." Staff Comments, p. 1. Staff concluded that "further investigation into PGE's request to defer excess pension expense and the carrying costs of cash contributions to PGE's pension plan is warranted." *Id.* at 3. After noting that the Commission will open a generic investigation Staff stated: "Accordingly, Staff recommends that the Commission either hold this application in abeyance, or simply not establish a procedural schedule, while the generic proceeding is underway."

Delaying proceedings on this application while the generic docket is moved forward is a reasonable approach that PGE does not oppose. That would allow the subject costs to be handled consistent with the outcome of that docket, if the Commission deems that appropriate.

However, should the Commission not adopt Staff's recommendation to delay the proceedings in this docket, PGE requests a hearing under ORS §757.259(2).

### CONCLUSION

CUB and ICNU have taken an unusual, and unsupported, position that this deferral application should be dismissed without any further inquiry by the Commission. They have not presented any convincing reasons why the Commission should take such a step. Staff recognizes the need for further investigation into the deferral request and the facts behind it. Staff also recommends that the Commission delay further proceedings on this application while the generic pension issue docket moves forward. If that generic docket moves forward in a timely manner, PGE does not oppose Staff's proposal to delay proceedings here.

Dated this 13<sup>th</sup> day of November, 2012.

Respectfully submitted,



---

Douglas C. Tingey, # 044366  
Associate General Counsel  
Portland General Electric Company  
121 SW Salmon St., 1WTC 1301  
Portland, OR 97204  
(503) 464-8926 Telephone  
(503) 464-2200 Fax  
[doug.tingey@pgn.com](mailto:doug.tingey@pgn.com)



## CERTIFICATE OF SERVICE

I hereby certify that I have this day caused **UM 1623 - PORTLAND GENERAL ELECTRIC COMPANY'S REPLY COMMENTS** to be served by electronic mail to those parties whose email addresses appear on the attached service list and by First Class U.S. Mail, postage prepaid and properly addressed, to those parties on the attached service list who have not waived paper service for OPUC Docket No. UM 1623.

DATED at Portland, Oregon, this 13th day of November, 2012.



---

Sheila Cox

Regulatory Legal Assistant

On behalf of Portland General Electric Company

121 SW Salmon St., 1WTC 1301

Portland, OR 97204

503-464-8583 Telephone

503-464-2200 Fax

[sheila.cox@pgn.com](mailto:sheila.cox@pgn.com)

**SERVICE LIST 11/13/12  
OPUC DOCKET # UM 1623**

OPUC Dockets (C) CITIZENS' UTILITY BOARD OF OREGON <a href="mailto:dockets@oregoncub.org">dockets@oregoncub.org</a>	Robert Jenks (C) CITIZENS' UTILITY BOARD OF OREGON <a href="mailto:bob@oregoncub.org">bob@oregoncub.org</a>
G. Catriona McCracken (C) CITIZENS' UTILITY BOARD OF OREGON <a href="mailto:catriona@oregoncub.org">catriona@oregoncub.org</a>	Donald Schoenbeck (C) REGULATORY & COGENERATION SERVICES, INC. <a href="mailto:dws@r-c-s-inc.com">dws@r-c-s-inc.com</a>
Irion Sanger (C) DAVISON VAN CLEVE, PC <a href="mailto:mail@dvclaw.com">mail@dvclaw.com</a>	S. Bradley Van Cleve (C) DAVISON VAN CLEVE, PC <a href="mailto:bvc@dvclaw.com">bvc@dvclaw.com</a> ; <a href="mailto:mail@dvclaw.com">mail@dvclaw.com</a>
Nicholas (Nick) Cimmiyotti (C) OREGON PUBLIC UTILITY COMMISSION <a href="mailto:nick.cimmiyotti@state.or.us">nick.cimmiyotti@state.or.us</a>	Judy Johnson (C) OREGON PUBLIC UTILITY COMMISSION <a href="mailto:judy.johnson@state.or.us">judy.johnson@state.or.us</a>
Jason W. Jones DEPARTMENT OF JUSTICE <a href="mailto:jason.w.jones@state.or.us">jason.w.jones@state.or.us</a>	Randall Dahlgren PORTLAND GENERAL ELECTRIC COMPANY <a href="mailto:pge.opuc.filings@pgn.com">pge.opuc.filings@pgn.com</a>
Christopher A. Liddle PORTLAND GENERAL ELECTRIC COMPANY <a href="mailto:christopher.liddle@pgn.com">christopher.liddle@pgn.com</a>	Douglas C. Tingey PORTLAND GENERAL ELECTRIC COMPANY <a href="mailto:doug.tingey@pgn.com">doug.tingey@pgn.com</a>