ITEM NO. CA17

PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: December 18, 2018

REGULAR ____ **CONSENT** X **EFFECTIVE DATE** **January 1, 2019**

DATE: December 4, 2018

TO: Public Utility Commission

FROM: John Fox JF

THROUGH: Jason Eisdorfer JE and Marianne Gardner MG

SUBJECT: PORTLAND GENERAL ELECTRIC: (ADV 893/Advice No. 18-25) Requests approval to amortize in rates the $45 million deferred 2018 net benefits associated with the tax rules and provisions implemented through the U.S. Tax Cut and Jobs Act of 2017.

STAFF RECOMMENDATION:

Approve amortization of the 2018 ratepayer benefits of $45 million associated with the Tax Act beginning January 1, 2019 and ending December 31, 2020, consistent with the Term Sheet agreed to by PGE, Staff, AWEC, Calpine Solutions, Fred Meyer, and CUB.

DISCUSSION:

Issue

Whether the Commission should approve Portland General Electric's (PGE or Company) Schedule 132, Federal Tax Reform Credit amortizing the Commission-approved deferred 2018 net benefits associated with the tax rules and provisions implemented through the U.S. Tax Cut and Jobs Act of 2017.

Applicable Rule or Law

Under ORS 757.205(1), a public utility must file schedules showing all rates, tolls, and charges for service that have been established and are in force at the time. The Commission may approve tariff changes if they are deemed to be fair, just and reasonable. ORS 757.210. Tariff revisions or corrections may be made by filing revised sheets with the information required under the Commission's administrative rules, including OAR 860-022-0005 and OAR 860-022-0025. Filings that make any change in rates, tolls, charges, rules, or regulations must be filed with the Commission at least 30 days before the effective date of the changes. ORS 757.220.

OAR 860-022-0025(2) specifically requires that each energy utility changing existing tariffs or schedules must include in its filing a statement plainly indicating the increase, decrease, or other change made with the filing, the number of customers affected by the proposed change and the resulting change in annual revenue; and the reasons or grounds relied upon in support of the proposed change.

Unless subject to an automatic adjustment clause under ORS 757.210(1), amounts deferred are allowed in rates to the extent authorized by the Commission in a proceeding under ORS 757.210 to change rates and upon review of the utility's earnings at the time of application to amortize the deferral. ORS 757.259(4); OAR 860-027-0300(9).

Analysis

Tax Act Deferral Background

On December 22, 2017, President Donald Trump signed H.R.1 – Tax Cuts and Job Act (Tax Act), with most provisions going into effect on January 1, 2018. The Tax Act amends sections of the 1986 code, most notably the reduction in the federal corporate income tax rate from 35 percent to 21 percent. The change in the corporate income tax rate also results in excess deferred income tax (EDIT) assets and liabilities that must be reversed.

On December 29, 2017, Portland General Electric (PGE or Company) filed a deferral application (Docket No. UM 1920) "to defer for later rate-making treatment the 2018 expected net benefits associated with the tax rules and provisions implemented through the current Tax Reconciliation Act, Public Law Number 115-97 (Tax Plan)," with the intent of tracking the net impacts of the Tax Act to pass onto to customers. At the time the Application was filed, the impacts of the Tax Act were unknown.

On April 13, 2018, the Company supplemented its Application, identifying PGE's initial anticipated implications of the Tax Act for PGE, and providing a preliminary estimate of the net amount to refund to customers of between $25 million and $30 million using forecasted 2018 results of operations "with" and "without" the Tax Act impacts. The Company also stated these estimates do not include any adjustments which may result from application of an earnings review in accordance with ORS 757.259(5).

On December 29, 2017, Staff also filed an application (Docket No. UM 1926) to defer the changes in PGE's federal tax obligations resulting from H.R.1 — Tax Cuts and Jobs

Act (Application). Staff filed similar applications for all six energy utilities to ensure ratepayers would benefit from the tax reduction beginning January 1, 2018. PGE responded on April 30, 2018, referring back to the contemporaneous docket and stating the Company's intention to provide information through Docket No. UM 1920, the Company's belief that the UM 1926 docket is "redundant and unnecessary," and requesting Staff withdraw its application. As discussed more fully below, Staff has agreed to withdraw its application upon Commission approval of Docket No. UM 1920.

On December 4, 2018, the Commission issued Order No. 18-459 approving PGE's Application for the Deferral of 2018 Net Benefits Associated with the U.S. Tax Reconciliation Act, docketed as UM 1920, for the twelve-month period beginning December 31, 2017, calculated to be $45 million.

Order No. 18-459 memorializes the following terms governing amortization of the 2018 deferred tax benefit:

1. PGE will refund a total of $45 million dollars for the 2017-2018 net benefits associated with the tax rules and provisions implemented through the current Tax Reconciliation Act, Public Law Number 115-97 ("Tax Cuts and Jobs Act" or "TCJA").

2. The refund will begin on January 1, 2019 such that the $45 million will be amortized over two years with interest being applied to the unamortized regulatory liability in accordance with Commission Order No. 08-263.

3. Upon Commission approval of this agreement, and consistent with the third partial stipulation filed on September 6, 2018 in Docket No. UE 335, PGE will submit a compliance filing to begin amortization on January 1, 2019. The $45 million refund will be allocated to each schedule on an equal percentage basis using the applicable schedule's forecasted revenues at current prices excluding net variable power costs.

6. Consistent with the partial stipulation regarding direct access filed on August 20, 2018 in Docket No. UE 335, Parties agree that the transition adjustment calculated for long-term opt out program customers will include an allocation of the $45 million amortized in rates consistent with Paragraph 3 above. For purposes of allocation, one-year opt-out customers will be treated as cost-of-service.

Earnings Test

Order No. 18-459 memorializes the following term governing application of an earnings test to the 2018 deferred tax benefit:

5. Parties acknowledge that the Commission must review earnings as specified by ORS 757.259(5), however PGE agrees that the $45 million refund will result in earnings that are within an acceptable level relative to the rate authorized by Commission Order No. 17-511 in PGE's 2018 general rate case, Docket No. UE 319.

Conclusion

Staff has reviewed the proposed tariff schedule and associated work papers provided by the Company and finds that they are calculated in accordance with the terms agreed to by the Parties and discussed in Order No. 18-459 and recommends the Commission approve PGE's proposed Schedule 132.

The parties have agreed to a stipulated outcome regarding application of an earnings test. Accordingly, Staff concludes further review of Company's earnings at the time of application to amortize the deferral is unnecessary.

PROPOSED COMMISSION MOTION:

Approve PGE's Schedule 132, Federal Tax Reform Credit amortizing the Commission-approved deferred 2018 net benefits associated with the tax rules and provisions implemented through the U.S. Tax Cut and Jobs Act of 2017.