

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: December 28, 2023**

REGULAR _____ **CONSENT** X **EFFECTIVE DATE** _____ **N/A** _____

DATE: December 4, 2023

TO: Public Utility Commission

FROM: Kathy Zarate

THROUGH: Bryan Conway and Marc Hellman **SIGNED**

SUBJECT: PORTLAND GENERAL ELECTRIC:
(Docket No. UM 1991(4))
Requests for reauthorization to defer costs associated with its PGE's R&D
Income Tax Credits.

STAFF RECOMMENDATION:

Staff recommends that the Commission approve Portland General Electric Company's (PGE, or Company) application to defer costs associated with its PGE's Research and Development (R&D) Income Tax Credit for the 12-month period beginning December 18, 2022, through December 17, 2023

DISCUSSION:

Issue

Whether the Commission should authorize PGE's request to defer costs associated with its PGE's R&D Income Tax Credits.

Applicable Law

Under ORS 757.259, the Commission may authorize deferred accounting for later incorporation in rates. Upon a finding that amounts should be deferred in order to minimize the frequency of rate changes or the fluctuation of rate levels or to match appropriately the costs borne by and benefits received by ratepayers, the Commission may authorize deferred accounting treatment with interest of utility expenses and revenues.

OAR 860-027-0300 generally sets forth the Commission's application requirements for deferrals and amortization of deferred amounts.

In OAR 860-027-0300(3), the Commission has set forth the requirements for the contents of deferred accounting applications. Applications for reauthorization must include an explanation of the entries in the deferred account to the date of the application for reauthorization and the reason for continuation of deferred accounting. OAR 860-027-0300(4). Notice of the application must be provided pursuant to OAR 860-027-0300(6).

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.

The Commission's final determination on deferred amounts allowable in the rates of the utility is subject to a finding by the Commission that the amount was prudently incurred by the utility. ORS 757.259(5)

Analysis

Background

On December 16, 2022, Portland General Electric Company (PGE) filed an application with the Public Utility Commission of Oregon (Commission or OPUC) for an Order authorizing the continuance of the deferral of net benefits or costs associated with PGE's research and development income tax credits.

Commission Order No. 18-464 (Docket No. UE 335), adopted the third partial stipulation (dated September 6, 2018), which specified that PGE would hire a consultant to determine how much of PGE's costs qualify for the R&D tax credits.

The R&D tax credit represents a federal¹ income tax incentive for the performance of qualified research within the U.S. to develop new or improved products, processes, or software.

In addition, the stipulation also specified that any net benefit resulting from the study would be refunded to customers and any net costs would be split evenly between PGE's customers and shareholders.

¹ The Oregon R&D tax credit expired for tax years beginning after December 31, 2017.

Description of Expenses

The cost and benefits of the fifth vintage (for tax year 2022) will not be determined until that study is complete in the year 2023. Table 1, below, lists the current vintages, the R&D tax credits, the adjustments to derive the net benefit available for customer refund, and the expected refund year.

Table 1
R&D Tax Credit Vintages

(\$ in millions)	Tax Years	A R&D Tax Credits	B Reserve for Uncertain Tax Position	C Study Cost	D=A+B+C Net Amount Available for Refund or Collection	Net Benefit Refund Year	Final Refund / Collection Amount*	Final Refund / Collection Year*
Vintage 1	2016-2017-2018	\$5.3	(\$1.4)	(\$0.4)	\$3.5	2021	TBD	TBD
Vintage 2	2019	\$0.27	\$0	(\$0.01)	\$0.26	2021	TBD	TBD
Vintage 3	2020	\$1.5	\$0	(\$0.08)	\$0.91	2022	TBD	TBD
Vintage 4	2021	\$0	\$0	(\$0.01)	(\$0.005)	2023	TBD	TBD
Vintage 5	2022	TBD	TBD	TBD	TBD	2024	TBD	TBD

* Post IRS audit or expiration of statute of limitations

Reason for Deferral

Pursuant to ORS 757.259(2)(e), PGE seeks to continue deferred accounting treatment of the net benefits and/or costs associated with the 2022 vintage of R&D tax credits. In order to determine the R&D tax credit for each vintage, PGE expects to incur costs to pay for a consultant who will help PGE determine the amount of R&D tax credit to claim.

Proposed Accounting

The deferral will record the net benefits associated with PGE's actual R&D tax credits and the costs of a consultant to perform the studies to determine the proposed R&D tax credits to claim on PGE's income tax returns. In addition, each year's net benefit or cost constitutes a vintage of R&D tax credits. Because of the on-going nature of determining each vintage of credits, plus refunding them, and truing-up each vintage of R&D tax credits to final actual amounts, PGE proposes that this deferral continue to support an automatic adjustment clause.

Also, PGE proposes to continue to use two separate accounts for the applicable vintage. If the Deferred Amount is a credit (refund), PGE proposes to record it as a regulatory liability in FERC Account 254, Other Regulatory Liability, with a debit to FERC Account 407.3, Regulatory Debits. If the Deferred Amount is a debit (collection),

PGE proposes to record it as a regulatory asset in FERC Account 182.3, Other Regulatory Assets, with a credit to FERC Account 407.4, Regulatory Credits.

Information Related to Future Amortization

- Earnings Review – The Deferred Amounts of the R&D tax credits will be subject to an automatic adjustment clause rate schedule and Staff does not recommend applying an earnings review for these costs.
- Prudence Review – A prudence review should be performed by the Commission Staff as part of the amortization and final adjustment filings.
- Share Percentages – All prudently incurred costs and benefits would be collected or refunded from or to customers based on the following:
 - PGE’s customers will receive a refund of 100 percent of the Deferred Amount, when it is a net benefit.
 - PGE’s customers will receive a charge of 50 percent of the Deferred Amount when it is a net cost.
- Rate Spread/Rate Design – Any Deferred Amount will be allocated to each schedule using the applicable schedule’s forecasted energy on the basis of an equal percent of revenues.
- Three Percent Test (ORS 757.259) (6) – The amortization of the Deferred Amounts for each vintage associated with the R&D tax credits will be subject to the three percent test in accordance with the ORS 757.259(7) and (8), which limits aggregated deferral amortizations during a 12-month period to no more than three percent of the utility’s gross revenues for the preceding year.

Conclusion

Staff concludes that reauthorization of the deferral of R&D tax credits complies with the requirements of ORS 757.259 and OAR 860-027-0300 and is consistent with Commission Order No. 18-464, approving the third partial stipulation.

Staff also agrees that the yearly amortization of net tax credits is appropriately accomplished through continued use of an automatic adjustment clause mechanism.

The Company has reviewed this memo and agrees with its contents.

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PROPOSED COMMISSION MOTION:

Approve Portland General Electric's (PGE or Company) application for reauthorization to defer costs associated with its PGE's R&D Income Tax Credits for 12 months beginning December 18, 2022, through December 17, 2023

PGE UM 1991(4) R&D Tax Credit Deferral