

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: March 8, 2022**

REGULAR CONSENT EFFECTIVE DATE January 1, 2022

DATE: February 22, 2022

TO: Public Utility Commission

FROM: John Fox

THROUGH: Bryan Conway, Marc Hellman, and Matt Muldoon **SIGNED**

SUBJECT: PORTLAND GENERAL ELECTRIC COMPANY:
(Docket No. UM 2131(1))
Application for Reauthorization of Deferral of Costs and Revenues
Associated with the Metro Supportive Housing Services Tax.

STAFF RECOMMENDATION:

Approve Portland General Electric's (PGE or Company) application requesting authorization for a deferred account for costs and revenues associated with the Metro Supportive Housing Services (MSHS) Tax for the 12-month period beginning on January 1, 2022.

DISCUSSION:

Issue

Whether the Commission should approve PGE's application for deferred accounting for the 12-month period beginning January 1, 2022, related to the Metro Supportive Housing Services (MSHS) Tax.

Applicable Rule or Law

Beginning with the date of the Application, the Commission may approve the deferral of identifiable utility expenses or revenues, the recovery or refund of which the Commission finds should be deferred in order to minimize the frequency of rate changes for the fluctuation of rate levels or to match appropriately the costs borne by and benefits received by ratepayers. ORS 757.259(2)(e) and (4). 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). The Commission's final determination on the amount of deferrals 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).

ORS 757.269(1) states that "the Public Utility Commission shall act to balance the interests of the customers of the utility and the utility's investors by setting fair, just and reasonable rates that include amounts for income taxes" and "amounts for income taxes included in rates are fair, just and reasonable if the rates include current and deferred income taxes and other related tax items that are based on estimated revenues derived from the regulated operations of the utility."

OAR 860-022-0045 states that, in part, if any county in Oregon imposes or increases taxes or licensing, franchise, or operating permit fees, the utility required to pay such taxes or fees shall collect the amount from its customers within the county imposing such taxes or fees.

Analysis

Background

In May 2020, voters in Multnomah County, Washington County, and Clackamas County approved a measure to raise money for supportive housing services for people experiencing homelessness or at risk of experiencing homelessness in the greater Portland area. The program is administered by the Portland Area Metropolitan Service District (Metro) and funded by a 1 percent tax on taxable income of more than \$125,000 for individuals and \$200,000 for couples filing jointly, and a 1 percent tax on profits from businesses with gross receipts of more than \$5 million. The taxes are effective for tax years beginning on and after January 1, 2021.

Metro is organized under the provisions of Oregon Revised Statutes Chapter 268 and the Metro Charter. The Metro Council is the governing body of Metro. Beginning in December 2020, the Council has adopted various ordinances and administrative rules necessary to implement the new tax.¹

¹ <https://www.oregonmetro.gov/public-projects/supportive-housing-services-tax/codes-and-rules>.

PGE's Filing

PGE requests an accounting order authorizing PGE to defer for later rate making treatment costs and revenues associated with the Metro Supportive Housing Services (MSHS) Tax pursuant to Metro Measure 26-210. PGE requests that this deferral be subject to an automatic adjustment clause through PGE Schedule 103, and be effective January 1, 2022, through December 31, 2022.²

Proposed Accounting

PGE proposes the following MSHS Tax accounting treatment: the balancing account will be recorded in FERC account 242 (Current Regulatory Liability). MSHS payments (i.e., payments to the taxing authority) will be debited to FERC Account 242 and credited to FERC Account 407.4 (Regulatory Credit). MSHS amortization (i.e., revenues collected from PGE's Metro customers via the MSHS Tax tariff) will be credited to FERC Account 242 and debited to FERC Account 407.4. Interest will accrue on the balance at the approved blended treasury rate.

Estimated Deferrals in Authorization Period

PGE estimates the MSHS Tax amount to defer during 2022 to be approximately \$0.5 million dollars.

Discussion

OAR 860-022-0040 and OAR 860-022-0045 pertain to tax recoveries of cities and counties, respectively. While Metro is a unique entity, the tax itself is based on net income rather than a franchise arrangement. In fact, its staff reports associated with the Metro ordinances indicate the Metro Council's intent to adopt an income apportionment method consistent with that used by Multnomah County and the use of the Multnomah County Business Income Tax (MCBIT) as a guide for implementing the MSHS tax.³

In Order No. 21-029, the Commission approved PGE's Advice No. 20-48, implementing Schedule 103, used to collect the Metro Supportive Housing Services Tax from customers residing within the Metro jurisdiction. The Commission's Order included an automatic adjustment clause and also stated that ongoing annual deferrals will be necessary for this docket.

On November 30, 2021, the Commission approved PGE's Advice No. 21-33, revising the Schedule 103 rate to zero for the collection of the MSHS Tax from customers that reside within the Metro jurisdiction effective for service on or after January 1, 2022. At

² Application at 1.

³ See Metro Council Meeting Agenda, Ordinance 20-1454 Staff Report, December 17, 2020: <https://oregonmetro.legistar.com/View.ashx?M=AO&ID=96448&GUID=f1dd486a-112e-4435-a791-7727520b9f7d&N=TWVldGluZyBQYWNRZXQ%3d> accessed December 30, 2020.

that time, the Company reported a significant carryforward balance in favor of ratepayers due to tariff collections exceeding the amount of tax due in 2021 and estimated the 2022 tax to be \$446 thousand which is commensurate with this filing.

Information Related to Future Amortization

- Earnings Review – The MSHS Tax deferral will be subject to an automatic adjustment clause rate schedule, where all associated costs and revenues will flow through the established balancing account and would not be subject to an earnings review under ORS 757.259.
- Prudence Review – A prudence review should be performed by the Commission Staff as part of their review of this deferral’s annual reauthorization filings or applications to update Schedule 103.
- Sharing – No sharing mechanism applies to the MSHS tax costs or revenues.
- Rate Spread/Design – The MSHS Tax costs will be charged to customers as a percentage with certain exclusions.
- Three Percent Test (ORS 757.259(6)) – The three percent test measures the annual overall average effect on customer rates resulting from deferral amortizations. The three percent test limits (exceptions at ORS 757.259(7) and (8)) the 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

For the reasons stated above, Staff recommends the Commission approve PGE’s request for reauthorization of a deferred account related to the MSMH Tax for the 12-month period beginning on January 1, 2022.

The Company has had the opportunity to review this memo.

PROPOSED COMMISSION MOTION:

Approve PGE’s application requesting authorization for a deferred account for costs and revenues associated with MSHS Tax for the 12-month period beginning on January 1, 2022.