

fluctuations of rate levels or to match appropriately the costs borne by and benefits received by ratepayers." ORS 757.259(2)(e).

OAR 860-027-0300(3) sets forth the requirements for the contents of deferred accounting applications. Authority to defer expires 12 months from the date of the order authorizing deferral. Applications for reauthorization must include a description and explanation of the entries in the deferred account, up to the date of the application for reauthorization, as well as the reason for continuation of deferred accounting. OAR 860-027-0300(4).

Analysis

Background

On December 27, 2021, Portland General Electric asked the Commission to approve its request for an accounting order authorizing PGE to defer revenues associated with the change in PGE's Federal Energy Regulatory Commission (FERC) Open Access Transmission Tariff (OATT). PGE's application explained that the deferral will support an automatic adjustment clause rate schedule with an associated balancing account mechanism to track incremental revenues associated with increases to PGE's transmission rates under review by FERC that are not currently accounted for in retail rates.

Forecasted revenues from wholesale sales of transmission are used to offset PGE's retail revenue requirement for purposes of setting rates in a general rate case. The transmission wholesale sales revenue forecast used to set rates in PGE's most recent rate case is based on PGE's OATT in effect prior to an interim rate change allowed by FERC effective January 1, 2022. PGE's net transmission sales revenue will be higher than what is currently assumed for Oregon retail rates due to the increase to the rates charged for transmission service and reclassification of certain distribution assets as transmission assets.

PGE was required to seek deferral of incremental transmission wholesale sales revenue pursuant to a stipulation between PGE, Staff, the Oregon Citizens' Utility Board (CUB), and the Alliance of Western Energy Consumers (AWEC) and approved by the Commission. The stipulation concerned PGE's request to the Commission to reclassify distribution assets as transmission assets. PGE filed an application asking the Commission to approve PGE's proposed reclassification of assets on August 29, 2019, which was docketed as UM 2031. Ultimately, the parties to that docket agreed to support reclassification of certain assets including 115 kV facilities. In exchange, PGE agreed to file a request to defer any incremental revenues associated with the reclassification and anticipated FERC rate case. The Commission adopted the

stipulation in Commission Order No. 19-400, and noted the provisions of the agreement as follows:

Under the stipulation, PGE commits to propose a method to hold all customer classes harmless for the time between the rate effective date in FERC and Commission rate cases that include the reclassified assets to account for any mismatch in timing. We direct that PGE consult with Staff and other parties to establish a process to develop and obtain Commission approval of such a method prior to the effective date of any change in transmission rates that include the reclassified assets.¹

The Commission approved PGE's December 27, 2021, request to defer incremental transmission wholesale sales revenue in Order No. 22-311.²

PGE filed a request to reauthorize the deferral on December 22, 2022. The reauthorization request states that parties to PGE's transmission rate case at FERC reached a settlement and the settlement is under advisement at FERC. PGE reported that it anticipated it would defer approximately \$7 million in incremental revenue in 2023 if the Commission approved its request for reauthorization.

Stakeholder Comments

Steven Knudsen is a PGE customer. Mr. Knudsen previously submitted comments in the initial PGE deferral and again submitted comments on this reauthorization request. In his comments, received January 13, 2023, Mr. Knudsen argues the application to defer is deficient because the application does not include: (1) a description and explanation of the entries in the deferred account to the date of the application for reauthorization; and, (2) the reason(s) for continuation of the deferred account as required under OAR 860-027-0300(4)(b).³ Knudsen asks the Commission to hold a hearing on PGE's request to reauthorize the deferral of incremental transmissions wholesale sales revenue:

PGE's [*sic*] has obfuscated the true particulars of this deferral, and history shows that the OPUC is not informed by or otherwise attentive to PGE's large transmission rate increase recently assessed to PGE's retail customers. The lack of transparency displayed by both PGE and the OPUC, and the lack of relevant information upon which the OPUC could

¹ *In the Matter of Portland General Electric Company Application for Support for the Reclassification of Plant in Service*, Docket No. UM 2031, Order No. 19-400, p. 7.

² *In the Matter of Portland General Electric Company*, Docket No. UM 2217, Order No. 22-311 (August 20, 2022).

³ F. Steven Knudsen Comments, pp. 1-2.

assess the prudence of PGE's transmission rate increase and associated deferral should compel the Commission to set this Reauthorization request for hearing. Public trust in the Commission is at stake.

Criteria for Deferral

The Commission conducts a two-stage review to decide whether to approve a request to defer. The first stage involves a determination of whether a proposed deferral meets the criteria set forth in subsections (a) through (e) of ORS 757.259(2). These subsections identify types of monies, whether expenses or revenues, that the legislature has given the Commission discretion to defer. In the second stage, the Commission decides it should exercise its discretion to grant the deferral. In making this determination, the Commission considers two interrelated factors: the type of event that caused the deferral; and the magnitude of the event's effect.⁴

Here, the deferral satisfies the statutory criteria under ORS 757.259(2)(e), in that it matches costs borne by customers and the benefits received by ratepayers. With respect to the discretionary criteria, the Commission has already adopted an order approving a stipulation in which PGE agreed to defer any incremental revenue received under new transmission rates associated with reclassifying distribution assets as transmission assets.⁵ In light of PGE's previous stipulated agreement to defer the incremental revenues and the Commission's order approving that agreement, it is not necessary for the Commission to conduct further analysis to determine whether this deferral satisfies the Commission's discretionary criteria for deferral.

Staff Response to Mr. Knudsen's Comments and Analysis

The Commission considered PGE's initial request to defer incremental transmission revenues at two separate public meetings in 2022 and approved the request at the second meeting. In its application for reauthorization, PGE explains continuation of the deferral is necessary because PGE is continuing to collect revenues for wholesale sales that are incremental to the forecast of revenues assumed in rates. PGE states that it anticipates collecting \$7 million in incremental revenue (incremental to what is assumed in retail rates) from January 1, 2023, to December 31, 2023.

Staff believes PGE's explanation is sufficient to meet the requirement of OAR 860-027-0300(2)(b) to explain why continuation of the deferral is appropriate. Staff does not believe it is necessary for PGE to re-justify the purpose of the deferral, which is to hold customers harmless for the mismatch of forecasted revenue for

⁴ See *In the Matter of the Public Utility Commission of Oregon Staff Request to Open an Investigation Related to Deferred Accounting*, Docket No. UM 1147, Order No. 05-1070, p. (October 5, 2005).

⁵ *In the Matter of Portland General Electric Company Application for Support for the Reclassification of Plant in Service*, Docket No. UM 2031, Order No. 19-400, p. 7.

transmission wholesale sales assumed in retail rates and the actual revenues PGE receives as a result of its FERC-approved rate increase.

Staff disagrees that it was necessary for PGE to provide an explanation of the terms of the settlement agreement underlying the final agreement on transmission rates to obtain a deferral of the incremental revenues earned under the new rates. PGE explains the deferral is necessary because PGE will continue to collect revenues from wholesale sales of transmission that exceed the amount assumed in retail rates in 2023. This explanation is sufficient to support the deferral.

Mr. Knudsen is correct that PGE did not include in its application a description of the amounts it had deferred prior to the date it filed the application for reauthorization as PGE was supposed to do under OAR 860-027-0300(2)(a). However, Staff does not believe this omission warrants denial of the request to defer. In its first application to defer, PGE estimated it would defer approximately \$10.1 million in 2022. PGE has informed Staff that it had deferred approximately \$9.2 million between the date its updated FERC transmission rates became effective on January 1, 2022, and November 30, 2022. And PGE does include an estimate of the amounts PGE believes it will defer in 2023, which is approximately \$7 million.

Staff also disagrees with Mr. Knudsen that it is appropriate to examine the prudence of the settlement agreement and deferred amounts prior to authorizing the deferral request. Under the Commission's protocol for deferrals, the Commission does not examine the prudence or reasonableness of the deferred amounts at the time it considers the deferral application.⁶ Instead, the Commission examines the prudence of deferred amounts at the time amortization of the deferral is requested.

A prudence review prior to allowing applications to defer would be impractical. The Commission will often consider an application to defer before the deferral period ends. The Commission typically does not judge the prudence of costs or reasonableness of revenues before they are incurred or received. By approving an application to defer, the Commission is approving a request for an accounting order that will make expenses incurred or revenues earned eligible for future amortization. The Commission is making no determination about the ratemaking treatment of the deferred amounts. In contrast, the Commission is required review the prudence of deferred amounts prior to authorizing allowing the deferred amounts into rates.⁷

Mr. Knudsen's recommendation that the Commission conduct a hearing on PGE's application to evaluate the prudence of PGE's transmission rate increase at FERC and

⁶ *Request to Open and Investigation Related to Deferred Accounting, supra*, p. 7.

⁷ ORS 757.259(5).

the deferral because the “OPUC is not informed by or otherwise attentive to PGE’s large transmission rate increase recently assessed to PGE’s retail customers” should be rejected. First and most importantly, the Commission’s regulatory role does not include judging the prudence of FERC decisions and there is no reason to grant Mr. Knudsen’s request to hold a hearing to do so.

In any event, contrary to Mr. Knudsen’s understanding, the Commission Staff did participate in the settlement negotiations leading up to the final settlement reached by PGE, the Northwest Intermountain Power Producers, Shell Energy North America, Inc., and Calpine Energy Solutions, LLC.⁸ Staff participated in several settlement meetings and met individually with PGE, Shell, NIPPC, and the FERC Settlement Judge, to discuss Staff’s interests – protecting Oregon retail ratepayers – in the proceeding. Ultimately, Staff did not join in the settlement, but told the settling parties it did not oppose the stipulation.

Mr. Knudsen is Not Entitled to a Contested Case Hearing

ORS 757.259(2) provides that “[u]pon application of a utility or ratepayer or upon the commission’s own motion and after public notice, opportunity for comment and a hearing if any party requests a hearing, the commission by order may authorize deferral of the [amounts identified in (2)(a) through (e)]”. Under OAR 860-001-0010(7) “[p]arty’ means a person entitled as a matter of right to a hearing before the Commission, an intervenor, or Commission Staff.” Mr. Knudsen is not an intervenor in this proceeding or Staff, and because he has no interest or right that will be impacted by a Commission decision regarding PGE’s request for an accounting order, he is not entitled as a matter of right to a hearing and therefore does not qualify as a “party.”

In any event, the Commission’s public meeting process at which the Commission will consider PGE’s application is sufficient to satisfy any right to a hearing that Mr. Knudsen may have with respect to this matter. Mr. Knudsen had notice of PGE’s application and the opportunity to submit written comments prior to the meeting and the opportunity to comment orally directly to the Commission at the public meeting. These procedures are sufficient to determine the appropriate resolution of PGE’s application and Mr. Knudsen’s objections.

PGE Request for Reauthorization of Balancing Account and Automatic Adjustment Mechanism

PGE states in its application for reauthorization that “this filing also requests reauthorization of an automatic adjustment clause rate schedule with an associated

⁸ Staff’s participation in the settlement meetings is not reported in any of the documents filed by PGE, FERC Trial Staff or the FERC Settlement Judge so Mr. Knudsen cannot tell from the Docket Summary for PGE’s transmission rate case that Staff participated in the settlement meetings.

balancing account mechanism to track the ongoing revenue and refund amounts related to the FERC Transmission Rates.”⁹ Staff is unaware that the Commission has authorized an automatic adjustment clause with associated balancing account so there is nothing for the Commission to reauthorize.

PGE’s Response to Mr. Knudsen’s Comments and Analysis

PGE filed, on January 24, 2023, a response to Mr. Knudsen’s comments. PGE also recommends the Commission deny Mr. Knudsen’s request for a hearing. PGE argues that Mr. Knudsen does not have the “standing” because he is not a “party”, as he has never filed in UM 2217 a petition to intervene. ¹⁰ PGE also argues that Mr. Knudsen, “disregards the explanations in Staff’s August 18, 2022 Report articulating why PGE’s deferral request complies with the requirements of ORS 757.259, OAR 860-27-0300, and Order No. 19-400.”¹¹

Conclusion

Staff concludes this application complies with the requirements of ORS 757.259 and OAR 860-027-0300 and is consistent with OPUC Order No. 19-400 requiring PGE to hold customers harmless for any mismatch between costs charged to retail customers for PGE’s transmission rate increase and benefits from recovery of incremental revenues for sales to third parties that arise because of the timing of PGE’s transmission rate case and most recent retail rate case.

The Company has reviewed this memo and agrees with or expresses no objections to Staff’s recommendation.

PROPOSED COMMISSION MOTION:

Approve PGE’s application for to defer the Oregon-allocated share of the Company’s incremental revenue from PGE’s increase to transmission rates for wholesale sales to third parties under the OATT for 12 months beginning January 1, 2023.

PGE UM 2217(1) FERC OATT Deferral

⁹ *UM 2217 PGE’s Application for Deferral of Revenues Associated with the Change in Federal Energy Regulatory Commission Open Access Transmission Tariff*, p. 1.

¹⁰ PGE comments, dated January 24, 2023, pages 2 and 3.

¹¹ *Ibid*, page 3.