

ORDER NO. 04-562

ENTERED SEP 28 2004

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**BEFORE THE PUBLIC UTILITY COMMISSION**

**OF OREGON**

UM 1040(1)

In the Matter of	)	
	)	ORDER
PORTLAND GENERAL ELECTRIC	)	
COMPANY	)	
	)	
Application for Reauthorization of Deferral	)	
of Certain Advertising Costs.	)	

**DISPOSITION: DEFERRED ACCOUNTING APPLICATION APPROVED;  
WITH CONDITIONS AND REPORTING REQUIREMENTS**

On October 1, 2001, Portland General Electric Company (PGE) filed an application with the Public Utility Commission of Oregon (Commission), pursuant to ORS 757.259 and OAR 860-027-0300, for an order authorizing deferral of amounts spent on Category A advertising costs in excess of the final amount approved in UE 115, for the 12 months beginning October 1, 2001. The Commission granted the application in Order No. 02-088.

On September 30, 2002, PGE filed an application seeking to reauthorize deferral of the amount spent on Category A advertising costs that exceeds the amount currently allowed in rates for the period October 1, 2002 through September 30, 2003. The Commission granted the application and adopted the 2002 UM 1040 stipulation by Order No. 03-601.

On September 30, 2003, PGE filed an application seeking to reauthorize the deferral of Category A advertising that exceeds the amount currently allowed in rates for the period of October 1, 2003 through September 30, 2004. A description of the filing is contained in the Staff Report, attached as Appendix A and incorporated by reference.

At its Public Meeting on September 21, 2004, the Commission adopted Staff's Recommendation with conditions and reporting requirements set forth in the stipulation attached to Staff's Report, Appendix A, and approved Portland General Electric Company's current request.

**ORDER**

IT IS ORDERED THAT Portland General Electric Company's application for an accounting order regarding authorization to defer amounts spent on Category A advertising costs is granted, subject to the conditions and reporting requirements described in Appendix A. This approval is for accounting purposes only, and does not constitute approval for ratemaking purposes.

Made, entered and effective \_\_\_\_\_.

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**Lee Beyer**  
Chairman

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**John Savage**  
Commissioner

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**Ray Baum**  
Commissioner

A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-014-0095. A copy of any such request must also be served on each party to the proceeding as provided by OAR 860-013-0070(2). A party may appeal this order to a court pursuant to applicable law.

**ITEM NO. 3**

**PUBLIC UTILITY COMMISSION OF OREGON  
STAFF REPORT  
PUBLIC MEETING DATE: September 21, 2004**

**REGULAR**   X   **CONSENT**        **EFFECTIVE DATE**       October 1, 2003      

**DATE:** September 9, 2004

**TO:** Lee Sparling

**FROM:** Deborah Garcia through Ed Busch and Jack Breen

**SUBJECT:** PORTLAND GENERAL ELECTRIC: (Docket No. UM 1040) Requests reauthorization for deferral of certain advertising costs for later ratemaking treatment.

**STAFF RECOMMENDATION:**

I recommend that the Commission approve Portland General Electric Company's application to defer amounts spent on Category A advertising in excess of the final amount approved in UE 115, for the 12 months beginning October 1, 2003, with conditions and reporting requirements. Approval will be for accounting purposes only and does not constitute approval for ratemaking purposes.

**BACKGROUND:**

Portland General Electric's (PGE or Company) last general rate case, Docket UE 115, was filed as a result of Electric Restructuring legislation (SB 1149) that in part directed investor-owned utilities, such as PGE, to allow nonresidential customers direct access to purchase electricity, and to provide a portfolio of rate options to residential and small nonresidential customers. During the UE 115 proceeding, Staff recognized that PGE would have short-term Category A<sup>1</sup> advertising expense associated with the implementation of Electric Restructuring (and ongoing customer education responsibilities) that would drive Category A advertising expense higher than the level of expense normally incurred in the past and higher than the amount presumed to be just and reasonable by rule. However, due to the uncertainty of Electric Restructuring

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<sup>1</sup> Category A advertising is defined in OAR 860-026-0022 (2)(a) Presumptions of Reasonableness of Advertising Expenses in Utility Rate Cases Category "A" – Energy efficiency or conservation advertising expenses that do not relate to a Commission-approved program, utility service advertising expenses, and utility information advertising expenses.

activities, it was unclear how much additional expense could be considered prudent<sup>2</sup> and how long a higher than normal level of spending would be necessary. If, until the next rate case, PGE were allowed to embed into base rates a specific amount of additional expense annually, earmarked for Category A expenditures, there was no guarantee that the money would be spent for that purpose. Because the Commission cannot engage in retroactive ratemaking (absent deferral accounting), the Commission could not retrieve for customers the difference between the Category A expense budgeted into rates and what was actually spent.

Staff and PGE reached a settlement of the issue in UE 115 and added it to the revenue requirement stipulation that the Commission adopted in Order No. 01-777. The stipulation clause (the UE 115 stipulation) allowed PGE to defer annually Category A expense above the level presumed just and reasonable if PGE agreed to an audit for proper categorization and prudence of all Category A expense each year. The results of Staff's audit would be available for review before the Commission decided how much of the deferral to amortize into rates. Normally, an audit of this expense would not be conducted on an annual basis because the expense is already embedded in rates. The settlement protected customers by ensuring that they pay only prudently incurred Category A advertising expenses.

For the first audit period, October 1, 2001 through September 30, 2002 (Year 1), PGE filed an application under ORS 757.259 and OAR 860-027-0300 that asked, in accordance with the UE 115 stipulation, for approval by the Commission to defer the Category A expense that exceeded the amount embedded in rates. The Commission first considered PGE's request during the December 11, 2001 Public Meeting at which Bob Jenks of the Citizens' Utility Board (CUB) raised concerns about the amount of PGE's proposed deferral and whether the UE 115 stipulation was too open-ended. The Commission postponed a decision on the application to allow for further review.

Subsequently, PGE, CUB, and Staff negotiated a stipulation (the 2001 UM 1040 stipulation) that allowed PGE to defer all additional Category A advertising expense for the 12-month period beginning October 1, 2001, but capped the amount that PGE could request be amortized into rates at \$1,920,973. This stipulation limited total Category A expense for the 12-month period to \$3.8 million -- less than the \$4.1 million PGE originally requested in its UE 115 filing. The Commission approved the deferral request and adopted the 2001 UM 1040 stipulation by Order No. 02-088.

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<sup>2</sup> OAR 860-026-0022 (3)(a) Presumptions of Reasonableness of Advertising Expenses in Utility Rate Cases Advertising expenses in Category "A" are presumed to be just and reasonable in a rate proceeding to the extent that expenses are twelve and one-half hundredths of 1 percent (0.125 percent) or less of the gross retail operating revenues determined in that proceeding.

On September 30, 2002, PGE filed an application seeking to reauthorize the deferral for the second audit period, October 1, 2002 through September 30, 2003 (Year 2). After receipt of the application, the other UM 1040 Parties, CUB and Industrial Customers of Northwest Utilities (ICNU), agreed to consider the Year 2 application and stipulation after Staff's required audit of the Year 1 Category A expense was complete. PGE and Staff agreed that delay of Commission approval for this subsequent application would not harm PGE, as approval of a request to defer expense may be retroactive to the date of the filing. The UM 1040 parties held a teleconference on August 15, 2003 to discuss whether a new stipulation related to the Year 2 application for reauthorization was necessary. It was generally agreed that the concerns raised by CUB the year before were still valid and that a new stipulation was the best solution. CUB suggested, and the other parties agreed, that the cap on the amount of deferred expense for which PGE should be allowed to request amortization should be lowered to the amount of expense PGE actually incurred during Year 1, plus some amount for inflation. PGE, CUB, and Staff settled on a cap of \$1 million. ICNU notified the parties that it would not sign the stipulation, but would not oppose it. ICNU followed up with a letter to the Commission, dated September 15, 2003, that explained ICNU's position regarding the ongoing deferral. The Commission approved the deferral request and adopted the 2002 UM 1040 stipulation by Order No. 03-601.

The following table summarizes actions to date and status of PGE's Category A advertising:

<b>Period</b>	<b>Application for Deferral</b>	<b>Cap on Amortization</b>	<b>Staff Audit</b>	<b>Amortization</b>
Year 1 10/01- 9/02	Approved at 1/29/02 public meeting Order 02-088	\$1,920,973 (per PGE, Staff and CUB 2001 UM 1040 stipulation)	Completed 9/03 Proposed \$869,984	Began 1/04
Year 2 10/02- 9/03	Approved at 9/23/03 public meeting Order 03-601	\$1 million (per PGE, Staff and CUB 2002 UM 1040 stipulation)	Near Completion	--
Year 3 10/03- 9/04	Considered at 9/21/04 public meeting	PGE, Staff and CUB propose continuing \$1 million cap	--	--

**DISCUSSION:**

On September 30, 2003, PGE filed an application under ORS 757.259 and OAR 860-027-0300 asking, in accordance with the UE 115 stipulation, for approval by the Commission to reauthorize the deferral of Category A advertising that exceeds the amount currently allowed in rates for the period of October 1, 2003 through September 30, 2004. (Year 3)

Proposed Accounting

PGE proposes to record the deferral as a regulatory asset in FERC Account 182.3 crediting FERC Account 407.4 (Regulatory Credit Amortization). When deferred costs are authorized by this Commission to be recovered through rates, PGE will debit FERC Account 407.3 (Regulatory Debit Amortization) and credit FERC Account 182.3.

Position of the Parties

After receipt of the above application, CUB, Staff and PGE agreed to a reauthorization of the deferral with the same conditions contained in the Year 2 stipulation discussed above. The Parties agreed that a stipulation would not be necessary this year as the Commission could adopt the application for deferral with the same conditions required in the previous stipulation. (See Attachment A.) Again, delay of Commission approval for this subsequent application would not harm PGE, as approval of a request to defer expense is retroactive to the date of the filing.

ICNU Opposes Deferral Reauthorization

Along with an e-mail sent to Staff on September 8, 2004, ICNU attached a copy of the September 15, 2003, letter mentioned above sent to the Commission in response to PGE's Year 2 application for reauthorization of the deferral. (See Attachment B for the e-mail and letter.)

In the e-mail ICNU states, "...ICNU has not opposed the stipulations regarding the excess advertising costs in past years, but has expressed concern about the impact of including these excess costs in PGE's rates and the legal and policy implications associated with authorizing a deferred account year after year. Attached is the letter that ICNU sent to the Commission last year regarding the advertising deferral. In the letter, we questioned whether deferral of excess advertising expenses pursuant to the UE 115 stipulation was still warranted given the limited participation in direct access and the limited information that ICNU members had been receiving from PGE on the subject. ICNU also asked that the Commission not authorize future deferrals of excess advertising costs under the UE 115 stipulation. ICNU opposes reauthorization of the deferral this year primarily on the same grounds as last year, particularly with respect to the diminishing need for SB 1149 related advertising."

ICNU also indicates it may send another letter to the Commission before the September 21, 2004 Public Meeting restating its opposition and stating other arguments regarding the deferral for this year.

Staff Recommendation

Staff maintains that the deferral is working as intended. PGE's customers continue to benefit from fewer additional Category A dollars being added to rates than would have almost certainly been included as a fixed amount in the UE 115 rate case. Staff is in the process of completing its review of the Year 2 PGE Category A expense. Staff's audit of the prior period resulted in certain proposed disallowances to which PGE agreed, thereby avoiding a contested case process that eliminated the need for the Commission to perform an ad-by-ad review.

Staff recommends that the Commission approve PGE's Year 3 application to reauthorize the deferral of excess Category A advertising expenses for the period October 2003 – September 2004 with the same conditions as contained in the stipulation associated with the Year 2 deferral application. Before the Commission considers any amortization of that balance, Staff will perform a thorough audit of those expenditures. CUB, ICNU, and other parties may also participate in the audit. Staff also recommends the Commission direct PGE to continue making quarterly reports providing detail and documentation of all Category A expenses, including those in base rates.

**PROPOSED COMMISSION MOTION:**

Allow Portland General Electric's application to defer amounts spent on Category A advertising, in excess of the final amount approved in UE 115, be approved for the 12 months beginning October 1, 2003, and adopt the requirements set forth in the stipulation attached to Staff's Public Meeting Report as Attachment A.

The Company is further directed to continue to file with the Commission, within 45 days after the end of each quarter, a report documenting all Category A expenses.

Approval will be for accounting purposes only, and does not constitute approval for ratemaking purposes.

Attachments

PGE UM 1040

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