

PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: March 8, 2005

REGULAR X **CONSENT** **EFFECTIVE DATE** December 30, 2004

DATE: February 9, 2005

TO: Public Utility Commission

FROM: Carla Owings

THROUGH: Lee Sparling, Ed Busch and Judy Johnson

SUBJECT: PORTLAND GENERAL ELECTRIC: (Docket No. UM 1186) Application for Deferral of Independent Spent Fuel Storage Installation State Tax Credit Cost Reductions.

STAFF RECOMMENDATION:

I recommend Portland General Electric's request for deferral of Independent Spent Fuel Storage Installation (ISFSI) State Tax Credits beginning December 30, 2004, for the 2004 tax year, be approved for accounting purposes only. Ratemaking treatment should be reserved for a ratemaking proceeding.

DISCUSSION:

On December 30, 2004, Portland General Electric (PGE or the Company) filed a request for approval to defer ISFSI tax credits pursuant to OAR 860-027-0300(3) beginning December 30, 2004, for the 2004 tax year.

The ISFSI is a dry cask storage system, which provides storage for the spent nuclear fuel assemblies and radioactive waste generated at the Trojan plant during the years in which it produced energy. PGE, PacifiCorp and the Eugene Water and Electric Board jointly own the Trojan plant.

On December 9, 2004, the Environmental Quality Commission granted PGE approval on the final certification of ISFSI expenditures, authorizing a total of \$21.1 million (50% of PGE's share of the certified costs). The State Tax Credits are authorized for use on a straight-line basis

over ten tax years, with a carry-forward provision that allows any particular tax year's provision to be postponed for up to three tax years.

For any tax year, the maximum Deferral Amount is \$2.25 million (\$21.1 million over 10 years, after federal tax effect and using a Net to Gross Factor of 1.65%). The Company proposes to offset its monthly income tax expense (calculated on a stand alone basis) using these State Tax Credits. If PGE's monthly tax expense is less than the ISFSI Tax Credit offset, the Company proposes to defer the maximum possible credit considering the potential for a carry-forward in a future tax year. PGE seeks to maximize the potential of the entire ISFSI Tax Credit considering its taxable income and its tax expense accruals.

The Company proposes to accrue interest at its current authorized cost of capital, 9.083%. Interest will accrue appropriate to the timing of actual cash benefits received by PGE when payments to either its parent corporation or taxing entities are reduced by tax credits. PGE will request approval to extend this deferral on an annual basis.

Reason for Deferral

PGE seeks approval of this deferral pursuant to ORS 757.259(2)(e). This deferral will minimize the frequency of rate changes and match appropriately the costs borne and benefits received by ratepayers. PGE's customers have paid for the ISFSI project through their annual \$14.041 million contribution to the Trojan Nuclear Decommissioning Trust and PGE has committed that customers should receive the benefits of these tax credits. The Company has agreed to waive any argument pursuant to ORS 757.259(5) requiring the Commission to consider an earnings test prior to approval of the amortization.

Proposed Accounting

PGE proposes to record the deferral as a regulatory liability in FERC Account 254 (Other Regulatory Liabilities) and debit FERC Account 403.7 (Regulatory Debits). Absent approval of this deferral, PGE's net income would increase as a result of lower state tax expense.

Estimate of Amount

The Company estimates the maximum deferral to be approximately \$2.25 million per tax year; however, the actual deferred amount may be more or less depending upon PGE's state taxable income, actual tax expense and the provision for a three-year carry forward into future tax years.

Public Comment:

On February 18, 2005, the Eugene Water & Electric Board (EWEB) and Bonneville Power Administration (BPA) submitted comment regarding the proposed disposition of the ISFSI tax credit. EWEB is a thirty (30%) co-owner and co-licensee of Trojan with PGE. EWEB has assigned its 30% share to BPA.

BPA and EWEB are concerned that the Trojan Nuclear Decommissioning Trust (Decommissioning Trust) may be insufficient to complete PGE's share of the task of decommissioning Trojan. The Decommissioning Trust receives a \$14.041 million contribution annually by PGE's current ratepayers. BPA and EWEB would like to see the value of ISFSI Tax Credit dedicated to the Decommissioning Trust, rather than amortized back to ratepayers as proposed by PGE in this docket. BPA and EWEB believe this would provide more assurance that PGE will have adequate funds available in the Decommissioning Trust to complete the task of decommissioning Trojan.

PGE believes that the current proposal creates the greatest transparency in the treatment of the ISFSI Tax Credit and the most immediate benefit to ratepayers. The Company proposes to deposit the funds into a deferral account which would earn interest at PGE's current cost of capital (9.083%) and would be amortized back to ratepayers the following year.

The Company states that directing the ISFSI Tax Credit to the Decommissioning Trust would likely result in a reduction to the current contribution made by ratepayers. Therefore, the net result would not create a greater balance in the Decommissioning Trust, simply the same net contribution coming from two separate resources; the tax credit and regulatory funding through the ratepayers.

PGE points out that the Decommissioning Trust has historically received consistent regulatory treatment for the amounts necessary to complete the task of decommissioning and there is no foreseeable change to the regulatory paradigm.

While applying these funds to the Decommissioning Trust is certainly one option, Staff agrees with PGE that deferring the ISFSI Tax Credit creates the greatest amount of transparency, as well as the most immediate benefit to the ratepayers. Staff believes the Commission has consistently approved an annual amount in rates sufficient to fund the decommissioning project. This amount is reviewed and adjusted, if necessary, in a general rate proceeding. Staff has not received any evidence to indicate that the current regulatory treatment for the Decommissioning

Trust is likely to create any potential for a lack of funds necessary to complete the task of decommissioning.

PROPOSED COMMISSION MOTION:

Portland General Electric's request for deferral of Independent Spent Fuel Storage Installation (ISFSI) State Tax Credits beginning December 30, 2004, for the 2004 tax year, be approved for accounting purposes only. Ratemaking treatment should be reserved for a ratemaking proceeding.

PGE – UM 1186 Defer ISFSI Tax Credits