

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UE 204

In the Matter of

PORTLAND GENERAL ELECTRIC
COMPANY,

Request for recovery of costs associated with
its Selective Water Withdrawal Project.

ORDER

**DISPOSITION: MOTION TO EXTEND SUSPENSION PERIOD
GRANTED; REQUEST FOR INTERIM RATE
RELIEF DENIED**

On February 13, 2009, Staff of the Public Utility Commission of Oregon (Staff) filed a motion to suspend the tariffs in this docket for an additional three months. Staff's motion was supported by the Citizens' Utility Board (CUB) and the Industrial Customers of Northwest Utilities (ICNU). On February 17, 2009, Portland General Electric Company (PGE or the Company) asked the Commission to deny Staff's motion. In the alternative, PGE asked for interim rate relief during the additional suspension period. In this order, we extend the suspension period until July 15, 2009, and deny PGE's request for interim rates.

BACKGROUND

In a stipulation filed in docket UE 197, Staff, PGE, CUB, and ICNU agreed to address issues raised by PGE's Selective Water Withdrawal Project (SWW project) in this docket, and to make good-faith efforts to ensure that rates including approved costs from this docket would be effective in May 2009, or when the SWW project is closed to plant for accounting purposes. *See* UE 197 Stipulation Regarding Revenue Requirement at 2(b)(2) (filed October 9, 2008) (Stipulation).

On October 24, 2008, PGE filed tariff sheets to implement proposed rate changes for recovery of costs associated with the SWW project. The Commission suspended the proposed tariff schedule for six months from their proposed effective date, until May 24, 2009, and adopted a procedural schedule to complete an investigation of PGE's filing by that date.

On February 13, 2009, Staff filed a motion to suspend PGE's proposed tariff schedule for an additional three months (until August 24, 2009), to allow Staff to complete its investigation of the SWW project.¹ Staff stated that it needed extra time to complete the investigation because of increased costs of the project, modified designs for the project, and the overall complexity of the project. PGE opposed Staff's motion, arguing that additional delay was unjustified and would harm PGE. In the alternative, PGE argued that it should be allowed to implement an interim rate increase if the suspension period was extended.

A status conference was held on February 27, 2009, to discuss the issues raised by the parties. During the status conference, the parties agreed to a new procedural schedule that would shorten the length of the additional suspension period, but disagreed about whether interim rates were appropriate.

DISCUSSION

I. Extension of the Suspension Period

ORS 757.215 gives the Commission authority to suspend PGE's tariffs for a total of nine months in order for the Commission to complete its investigation. Although the Commission initially suspended PGE's tariffs for six months, we have authority to suspend PGE's tariffs for an additional three months.

In this case, all parties have agreed to a new procedural schedule that anticipates an order around July 1, 2009. We accept this new schedule and extend the suspension until July 15, 2009, with the expectation that the parties will work to resolve the issues in this docket by the dates in the new procedural schedule.

II. Interim Rates

Position of the Parties

PGE argues that under the unusual circumstances presented here, it should be permitted to implement interim rates before the end of the additional suspension period. PGE points to the Stipulation signed in UE 197, which requires the parties to make good-faith efforts to complete this docket by the SWW project's completion date. PGE contends that it will be harmed by approximately \$1.072 million for each month the SWW project is closed to plant in service but not included in rates.

¹ See ORS 757.215(1) (allowing the Commission to suspend a rate or schedule of rates for up to three months beyond the last day of an initial six-month suspension). Staff's motion was supported by CUB and ICNU.

PGE contends that the reasons offered by Staff for the delay in this docket—increased costs,² modified designs, and the complexity of the project—were all issues known to Staff when it signed the Stipulation. PGE acknowledges that the projected in-service date for the project has changed since this docket was opened, but argues that the currently projected June 1, 2009, completion date has been known to Staff for some time. In sum, PGE contends that it was not responsible for any delay, that it has cooperated with Staff's investigation, and that it should not be penalized by Staff's failure to complete the investigation in a timely fashion.

PGE acknowledges that interim rates are ordinarily disfavored, but argues that Commission precedent addressing the issue generally deals with initial rate filings, rather than the unusual circumstances presented here. The implementation of interim rates would be appropriate here, PGE argues, and it would protect PGE from unwarranted costs without harming customers, as any interim rates would be implemented subject to refund.³

Staff, ICNU, and CUB oppose PGE's request for interim rates on the grounds that the Commission disfavors the use of such rates except in extreme circumstances they contend are not present here. Staff acknowledges that PGE has cooperated with its investigation, but disagrees with PGE's assertion that interim rates are appropriate under the circumstances.

Resolution

We deny PGE's request for interim rate relief. We note at the outset that PGE is not entitled to immediate rate recovery upon completion of the SWW project. Although the parties stipulated to make good-faith efforts to complete this docket by the SWW project's in-service date, the Commission is authorized by ORS 757.215 to suspend tariffs seeking rate recovery of the project costs for as long as nine months – in this case, until August 24, 2009.

Although ORS 757.215(5) allows for interim rates, the use of such rates is disfavored. As a general matter, Commission policy is to grant interim rate relief only where the utility demonstrates that it faces severe financial distress that jeopardizes the continuing operation of the utility.⁴ PGE has neither established that interim rates are necessary to protect PGE's financial health nor shown any other compelling reason for an interim rate increase.

² PGE asserts that projections for PGE's share of the project have actually decreased by \$2.5 million since they were projected in docket UE 197.

³ See ORS 757.215(5) (stating that upon completion of the hearing and decision, the Commission shall order the utility to refund any portion of the increase in an interim rate or schedule that the Commission finds is not justified).

⁴ See, e.g., *In re Fish Mill Lodges Water System*, Order No. 07-439 (noting that, as a general matter, interim rate relief is granted only where a utility is in dire financial need and unable to continue providing adequate service to its customers without the additional funds); *In re Long Butte Water System, Inc.*, Order No. 05-1141 (noting that interim rate relief acts as a safety valve in circumstances where there is an important reason for deviating from the normal suspension and review process).

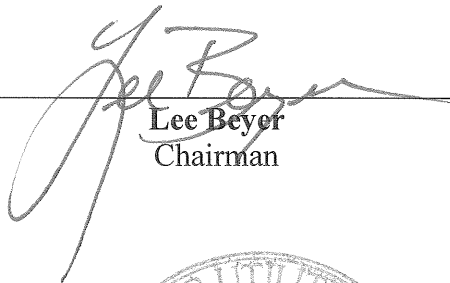
The current schedule anticipates a Commission order by around July 1, 2009, just one month after PGE projects that the SWW project will be closed to plant in service. This extension is not excessive, and the harm that PGE contends would result from the additional suspension period is far from certain, as the project's completion date is still subject to change.

For these reasons, we decline to implement interim rates under the circumstances presented here.


ORDER

IT IS ORDERED that the tariff schedules filed by Portland General Electric Company on October 24, 2008, are suspended until July 15, 2009. Portland General Electric Company's request for interim rate relief is denied.


Made, entered, and effective MAR 30 2009.



Lee Beyer
Chairman



John Savage
Commissioner



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 by filing a petition for review with the Court of Appeals in compliance with ORS 183.480-183.484.