

ORDER NO. 12 049

ENTERED FEB 14 2012

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1186(7)

In the Matter of

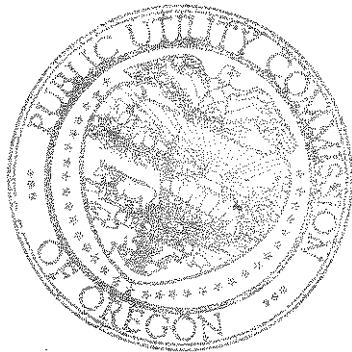
PORTLAND GENERAL ELECTRIC
COMPANY

Requests Approval to Defer Independent
Spent Fuel Storage Installation State Tax
Credits.

ORDER

DISPOSITION: STAFF'S RECOMMENDATION ADOPTED

At its Public Meeting on February 14, 2012, the Public Utility Commission of Oregon adopted Staff's recommendation in this matter, attached as Appendix A.



BY THE COMMISSION:

Becky L. Beier

Becky L. Beier
Commission Secretary

A party may request rehearing or reconsideration of this order under 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 860-001-0720. A copy of the request must also be served on each party to the proceedings as provided in OAR 860-001-0180(2). A party may appeal this order by filing a petition for review with the Court of Appeals in compliance with ORS 183.480 through 183.484.

ITEM NO. CA5

PUBLIC UTILITY COMMISSION OF OREGON
 STAFF REPORT
 PUBLIC MEETING DATE: February 14, 2012

REGULAR _____ CONSENT X EFFECTIVE DATE December 31, 2011

DATE: January 24, 2012

TO: Public Utility Commission

FROM: Deborah Garcia *DG*

THROUGH: *ME* Bryan Conway, *BC* Maury Galbraith and *MF* *JJ* Judy Johnson

SUBJECT: PORTLAND GENERAL ELECTRIC: (Docket No. UM 1186(7)) Requests reauthorization to defer Independent Spent Fuel Storage Installation State Tax Credits.

STAFF RECOMMENDATION:

I recommend that Portland General Electric's filing be approved.

DISCUSSION:

Portland General Electric (PGE or Company) makes this filing, pursuant to 757.259 and OAR 860-027-0300, to request reauthorization to defer Independent Spent Fuel Storage Installation (ISFSI) tax credits for the 2012 tax period. The Commission initially approved this deferral by Order No. 05-136. Approval was granted for subsequent annual deferrals, most recently by Order No. 10-480.

Background

The ISFSI is a dry cask storage system, which provided 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 approved PGE's request for final certification for ISFSI expenditures, and authorized state tax credits of \$21.1 million, equaling 50 percent 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.

PGE UM 1186(7) ISFSI Deferral
January 24, 2012
Page 2

For any tax year, PGE's maximum deferred amount is \$2.25 million (\$21.1 million over ten tax years, applying the federal tax effect, and using a Net-to-Gross Factor of 1.64). For tax periods during which PGE accrues less than the maximum provision of the ISFSI tax credit because anticipated state tax expense is less than 2.1 million, PGE calculates the deferral amount based on the actual ISFSI tax credit accrued.

Description of Expense

PGE annually evaluates the ISFSI tax credits accrued (but not yet used) to determine if the credits can be expected to be used prior to the expiration of their carry-forward provisions.

As a result of this evaluation, PGE has reduced the regulatory liability representing the deferral of benefits at the end of the third quarter 2011 by approximately \$1.9 million to reflect 2008 tax year credits that PGE estimates will remain unused.

PGE will continue to assess its ability to use these tax credits between the date of this current application and the end of the respective carry-forward periods. In this instance the final result will not be known until PGE files its 2011 tax return, the return is audited by the taxing authority, and is accepted as final. If the outcome of this process results in PGE being able to use credits previously assessed as not likely to be used, PGE will transfer those credits back to the deferred account.

The Company continues to propose accruing interest in accordance with Commission policy, including the methodology approved in Docket No. UM 1147. Interest accrues relative to PGE's receipt of actual cash benefits.

Reason for Deferral

This deferral will minimize the frequency of rate changes and match appropriately the costs borne and benefits received by ratepayers pursuant to ORS 757.259(e).

PGE's customers have paid for the ISFSI project through their annual contribution to the Trojan Nuclear Decommissioning Trust, and PGE has committed that customers should receive the benefits of these tax credits. The deferral of these credits allows them to be accumulated for later customer refund. Absent the deferral mechanism, PGE would seek changes to its base rates to reflect ISFSI tax credits so that the credits could be passed to customers.

PGE UM 1186(7) ISFSI Deferral
January 24, 2012
Page 3

Proposed Accounting

PGE proposes to continue recording the deferral as a regulatory liability in FERC Account 254 (Other Regulatory Liabilities) and debit FERC Account 407.3 (Regulatory Debits). Absent this deferral, PGE's net income would increase as a result of lower state tax expense when the ISFSI tax credits are utilized.

Estimate of Amounts

For the 12-month period beginning December 31, 2011, PGE estimates it will add \$2.25 million to the deferred account balance dependent on earning adequate taxable income to use all available credits. As stated earlier, the actual deferred amount may be different depending on PGE's state taxable income, actual tax expense, and the three-year carry forward provision applicable to future tax years.

Information Related to Future Amortization

- Sharing – No sharing of the deferral balance has occurred, or is contemplated.
- Prudence Review – The prudence review for this deferral has been, and will be, limited to a verification of the accounting methodology, including the assumptions and calculations, used to determine the final deferral balance.
- Earnings review - The Company has agreed to waive any argument pursuant to ORS 757.259(5) that would require the Commission to consider an earnings test prior to approval of amortization.
- Rate Spread/Design – Previously, PGE has credited customers through Schedule 105 - Regulatory Adjustments, on an equal percentage of revenues. Unless otherwise directed, this is how PGE will provide credits in the future.
- Three Percent Test (ORS 757.259(6)) – The three percent test measures the annual effect on customer rates that results from deferral amortizations. The three percent test limits (with certain exceptions) aggregated deferral amortizations during a 12-month period to no more than three percent of the utility's gross revenues for the preceding year. Specifically, this deferral amortization would not be subject to the three percent test as Staff's counsel has advised that the effect on customer rates of the implementation or cessation of a customer credit is to be excluded from the three percent test.

Staff Analysis

For this application, PGE has provided workpapers detailing prior period activity pursuant to OAR 860-027-0300(4). Because of the amortization of prior period credits on Schedule 105, the November 30, 2011, deferral balance is approximately

PGE UM 1186(7) ISFSI Deferral
January 24, 2012
Page 4

\$1.3 million. PGE estimates that when the December 2011 books close the deferral balance (including interest) will be further reduced to well under \$1 million. Following a review of PGE's workpapers, Staff agrees with PGE's results.

The rationale for this deferral is still valid, as the benefits received by ratepayers are matched to previously incurred costs. Further, the Company's application meets the requirements of ORS 757.259 and OAR 860-027-0300. For these reasons, Staff recommends PGE's application be approved.

PROPOSED COMMISSION MOTION:

PGE's application be approved for accounting purposes only, with ratemaking treatment reserved for a subsequent proceeding.

PGE UM 1186(7) ISFSI Deferral