

ORDER NO. 13 150

ENTERED APR 23 2013

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1645

In the Matter of

PORTLAND GENERAL ELECTRIC
COMPANY,

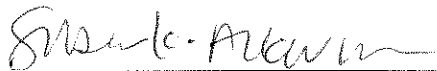
Application for an Accounting Order on
Deferred Taxes.

ORDER

DISPOSITION: STAFF'S RECOMMENDATION ADOPTED

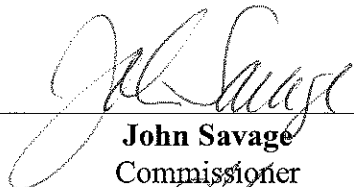
This order memorializes our decision, made and effective at the public meeting on April 23, 2013, to adopt Staff's recommendation in this matter. The Staff Report with the recommendation is attached as Appendix A.

Dated this 23rd day of April, 2013, at Salem, Oregon.

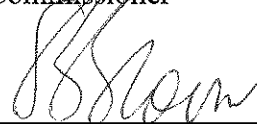


Susan K. Ackerman

Chair



John Savage
Commissioner



Stephen M. Bloom
Commissioner

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.

PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: April 23, 2013

REGULAR ☒ CONSENT ☐ EFFECTIVE DATE January 10, 2013

DATE: April 17, 2013

TO: Public Utility Commission

FROM: Judy Johnson *JJ*

THROUGH: Jason Eisdorfer *JE*, Maury Galbraith *MG* and Marc Hellman *MH*

SUBJECT: PORTLAND GENERAL ELECTRIC: (Docket No. UM 1645) Requests
Application for an Accounting Order on Deferred Taxes.

STAFF RECOMMENDATION:

I recommend that Portland General Electric's application be denied.

DISCUSSION:

Portland General Electric (PGE or Company) makes this filing pursuant to ORS 757.120 and ORS 757.125, to request a Commission accounting order authorizing PGE to begin classifying, as a regulatory asset, the incremental deferred income taxes (including the required regulatory gross-up amount) associated with certain adjustments to PGE's composite tax rate. PGE estimates that these grossed-up incremental deferred income taxes are approximately \$8.8 million. These charges are directly related to a change in apportionment of PGE's state income taxes, which affect its composite tax rate.

Background

PGE filed an application for an accounting order on deferred taxes on January 10, 2013. Subsequently the Company filed a Supplemental Application on February 6, 2013.

On January 11, 2013, PGE booked approximately a \$5.3 million increase to deferred income taxes based on an update to its composite tax rate, which reflects a change in apportionment of state income taxes. The reapportionment is directly related to a decline in wholesale energy sales at the Mid-Columbia (Mid-C) hub. The decline in wholesale sales is a result of significant decreases in: 1) wholesale market prices, and 2) physical energy hedging by PGE. The effect of this overall decline in Mid-C sales is

PGE UM 1645
April 17, 2013
Page 2

that a greater amount of PGE's total revenue is from retail sales in Oregon, which means a decrease in income apportioned to Washington and an increase in income attributed to Oregon. Because Washington State has a zero income tax rate and Oregon has a positive tax rate, the change in revenue apportionment results in an increase to PGE's composite tax rate.

PGE will book the \$5.3 million increase to deferred taxes on January 11, 2013. Approval to record this entry, plus the required regulatory gross-up amount of \$3.5 million, as a regulatory asset will allow the costs to be amortized over approximately 37 years, which is the average life of PGE property.

PGE requests approval to classify as capital the deferred income taxes associated with the change in PGE's composite tax rate. PGE will record these costs as Other Regulatory Assets in FERC Account 182.3 and as a deferred tax liability in FERC Accounts 190, 282, and 283. PGE proposes to amortize the regulatory asset over 37 years beginning in 2013. Without Commission approval of this application, these costs would be expensed, rather than capitalized.

Citizens' Utility Board Comments

Citizens' Utility Board (CUB) requests that the Commission order the Company to seek relief for any perceived inequities through its current rate case UE 262.

CUB requests that the commission deny PGE's requested deferral in this docket. PGE did not propose its application under deferred statutes.

CUB requests that the Commission deny the Company's request to waive OAR 860-027-045. CUB asserts that PGE has failed to show good cause for any waiver of this rule.

CUB requests that the Commission deny PGE's request to treat the requested deferred tax liability as a non-regulatory account for purposes of reporting Results of Operations and for developing test year forecasts in rate making proceedings.

Staff Analysis

With careful reading of the Application, it becomes readily apparent that the increase in deferred income taxes stems from the impact the reduction in revenues from Company sales at Mid-C and certain hedges had on PGE's composite tax rate, which is based on the weighted average of income taxes owed to Washington and Oregon. These types of issues are not customer responsibilities between rate cases.

PGE UM 1645
April 17, 2013
Page 3

Staff acknowledges the change in the composite tax rate, but disagrees with PGE that the one-time increase of \$5.3 million to deferred taxes should be borne by Oregon ratepayers. The increased deferred income taxes stem from a foreseeable change to PGE's composite tax resulting from a decrease in PGE's wholesale sales at the Mid-C. Further, the amount at issue is not so significant that special accounting or rate making treatment, between general rate cases, is warranted.

Staff also notes that PGE's proposed treatment of tax expense is unusual. Regulatory assets are not grossed up when included in rate base. PGE's proposal to treat the adjustment (\$5.3 million initially) as an expense, gross it up with the net-to-gross ratio (\$3.5 million additionally), and record the final \$8.8 million as a regulatory asset is a means to circumvent past practices involving regulatory assets and their inclusion in rate base.

Staff acknowledges that PGE has a power cost adjustment, and nonfirm sales for resale and other power sale activities are flowed through the power cost adjustment. However, the income tax changes from changes in mix of location of power sales has not been tracked or reflected in the power cost adjustment. Staff does not support making a change in practice through capitalizing and creating a regulatory asset associated with changes in income taxes. A new baseline for taxes is established in a general rate case, and to the extent taxes increase or decrease from the baseline is a business risk that the company faces. Staff supports continuing that approach.

Finally, for the reasons stated in this memorandum, Staff requests that the Commission deny the Company's request to waive OAR 860-027-0045. PGE has failed to show good cause for any waiver of this rule. Further, Staff does not understand the legal theory behind PGE's decision to file its application pursuant to ORS 757.120 and 757.125. Without more explanation from PGE, Staff believes an application such as this should be filed under ORS 757.259, the deferral statute. However, even if this application had been filed under ORS 757.259, Staff would still have recommended the Company's application be denied for the reasons stated in the body of the memorandum.

PROPOSED COMMISSION MOTION:

PGE's application be denied.