

ORDER NO. 16 257

ENTERED: JUL 07 2016

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UM 1623

In the Matter of

PORTLAND GENERAL ELECTRIC  
COMPANY,

Application for Deferral Accounting of  
Excess Pension Costs and Carrying Costs  
on Cash Contributions.

ORDER

DISPOSITION: APPLICATION DENIED; DOCKET CLOSED

In this order, we deny Portland General Electric Company's (PGE) request to defer certain pension-related costs.

**I. BACKGROUND**

PGE filed its initial deferral application in this docket on August 22, 2012, requesting balancing accounts for the difference between the amount included in rates for Financial Accounting Standard (FAS) 87 expense and PGE's actual recorded expense, and for the carrying cost on PGE's excess cash contributions to its pension plan.

Shortly after PGE's filing, we opened a generic investigation in docket UM 1633 to determine how utilities should recover pension-related costs. While that decision was pending, we held this docket in abeyance and PGE sought annual reauthorizations of the deferral. We concluded our UM 1633 investigation with Order No. 15-226, directing the utilities to continue to use FAS 87 expense in ratemaking and declining to allow utilities to include the carrying costs on cash contributions.<sup>1</sup>

The Industrial Customers of Northwest Utilities (ICNU) and the Citizens' Utility Board of Oregon (CUB) both became parties to this proceeding.

When this docket restarted, PGE withdrew its request for carrying costs on cash contributions. PGE also narrowed its request to 2012 and 2013, after determining that the 2014 and 2015 deferral amounts were offsetting. Finally, PGE withdrew its request for a

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<sup>1</sup> *In the Matter of Public Utility Commission of Oregon, Investigation into Treatment of Pension Costs in Utility Rates*, Docket No. UM 1633, Order No. 15-226 (Aug 3, 2015).

balancing account and proposed instead to amortize the deferral subject to an earnings test.<sup>2</sup> PGE's modified deferral request is shown in the table below:<sup>3</sup>

Year	Forecast FAS 87 Expense	Actual FAS 87 Expense	Variance	Deferral Requested
2012	\$5.1 million	\$13.2 million	\$8.1	<b>\$2.9 million</b> (starting Aug 22, 2012)
2013	\$5.1 million	\$18.6 million	\$13.5	<b>\$13.5 million</b>
2014	\$19.5 million	\$16.0 million	(\$3.5)	<b>\$0</b>
2015	\$13.8 million	≈ \$17.4 million	\$3.6	<b>\$0</b>

PGE claims these amounts meet the requirements for deferral and asks that we approve its application.

## II. DISCUSSION

We review an application for deferral in two steps.<sup>4</sup> First, we determine whether the proposed deferral meets the statutory criteria in ORS 757.259(2)(a)-(e). Here, PGE seeks deferral under subsection (e) of the statute, which allows us to authorize deferral in order to minimize the frequency of rate changes or the fluctuation of rate levels, or to match appropriately benefits received by ratepayers with costs borne by those same ratepayers. Second, if we find the deferral is legally authorized, we determine whether to exercise our discretion to grant the application, considering the type of event that caused the request for deferral and the magnitude of that event's effect on the utility.

### A. Statutory Criteria for Deferral Request

#### I. Positions of the Parties

PGE contends that the deferral satisfies either test in ORS 757.259(2)(e).

PGE reasons that the deferral would minimize rate changes because, had it not filed this deferral application, it would have sought interim rate relief in 2012 and 2013 resulting in

<sup>2</sup> PGE indicates this change is based primarily on the stipulation in its 2013 general rate case that neither a balancing account nor a deferral would be created for FAS 87 in that docket. *See In the Matter of Portland General Electric Company, Request for a General Rate Revision*, Docket No. UE 262, Order No. 13-459 (Dec 9, 2013) (adopting stipulations).

<sup>3</sup> The 2014 and 2015 figures are from PGE Response to ICNU Data Request No. 002 (CUB/103, McGovern/2) (Jan 22, 2016); PGE/100, Batzler-Hager/5 (Dec 2, 2015). The \$17.4 million estimate for 2015 is the sum of \$13.8 million from the data request response and the \$3.6 million variance provided in PGE's testimony. The \$2.9 million deferral amount for 2012 is the product of the \$8.1 million variance multiplied by 131/366.

<sup>4</sup> *In the Matter of Public Utility Commission of Oregon Staff Request to Open an Investigation Related to Deferred Accounting*, Docket No. UM 1147, Order No. 05-1070 at 2-3 (Oct 5, 2005).

more frequent rate changes. PGE claims that interim rates would have been warranted because its earnings in 2013 were 357 basis points below the authorized level.<sup>5</sup>

As to matching benefits and costs, PGE claims that the deferral matches the benefit of receiving continued service over the deferral period with the cost of funding the attractive pension plan that retained the skilled workforce providing the service. PGE reasons that, during the deferral period, regulatory and market forces beyond its control caused FAS 87 pension expense to depart five standard deviations from the projected amount in rates and increase to several times higher than the highest FAS 87 expense previously incurred,<sup>6</sup> and still, PGE continued to fund its pension plan and its workforce continued to provide customers service. PGE insists that this was an extraordinary deviation from the forecasted amount included in rates.

Staff, ICNU, and CUB respond that the deferral fails both tests in ORS 757.259(2)(e).

They argue that the deferral would not minimize the frequency of rate changes because it would require yet another rate change upon amortization, in addition to the three general rate cases PGE filed over 2013, 2014, and 2015.<sup>7</sup> Further, they question whether we would have granted interim relief, arguing that such relief is extraordinary and available only where a utility has met the high standard of severe financial distress that jeopardizes continued operation.<sup>8</sup>

As to appropriately matching benefits and costs, Staff, ICNU, and CUB contend that PGE's request will have the inverse effect due to the long-term nature of FAS 87 accounting. They argue that variances between actual and forecasted FAS 87 expense are expected to balance out through the over- and under-forecasting process inherent to FAS 87 ratemaking. ICNU describes how PGE's actual expense has fluctuated: between 2003 and 2011, PGE's cumulative FAS 87 expense was \$4 million less than it collected in rates, then PGE under-collected in 2012 and 2013, and then, with new rates in place in 2014, it over-collected again by \$3.5 million.<sup>9</sup> Between 2003 and 2004, ICNU adds, PGE booked negative FAS 87 expense of \$11.1 million.<sup>10</sup> CUB calculates that from 1997 to 2004, PGE collected in rates \$84 million in excess of actual pension expense.<sup>11</sup>

They maintain it would be improper to grant a deferral for a period of under-recovery without refunds to customers for years that PGE over-recovers. They suggest the focus should be whether customers' total payments over the life of the pension plan are roughly equivalent to PGE's total FAS 87 expense and not whether customers in a given year pay less than PGE records.

<sup>5</sup> PGE Reply Brief at 3 n 1 (Apr 15, 2016) (comparing 2013 6.43 percent actual ROE and 10 percent authorized ROE).

<sup>6</sup> *Id.* at 4.

<sup>7</sup> See Docket Nos. UE-262 (filed Feb 15, 2013), UE-283 (Feb 13, 2014), and UE-294 (Feb 12, 2015).

<sup>8</sup> ICNU Opening Brief at 8 (Mar 28, 2016) (citing *In the Matter of Portland General Electric Company*, Docket No. UE 204, Order No. 09-108 at 3 (Mar 30, 2009)).

<sup>9</sup> *Id.* at 10 (citing ICNU/102 at 1-2).

<sup>10</sup> *Id.*

<sup>11</sup> CUB/100, McGovern/7 (Jan 22, 2016) (citing CUB/102).

## 2. *Commission Resolution*

PGE has failed to demonstrate that the deferral satisfies either statutory criterion in ORS 757.259(2)(e).

The evidence in the record shows the proposed deferral would not minimize the frequency of PGE's rate changes. PGE argues that its alternative to filing a request for deferral was to file a request for interim rates; however, PGE fails to establish that interim rates were a realistic alternative. Interim rate increases are granted in rare instances when the utility faces such severe financial distress that it jeopardizes the continuing operation of the utility.<sup>12</sup> The excess FAS 87 expense in 2012 and 2013 would not warrant such exceptional relief.<sup>13</sup> The impact of the excess FAS 87 expense on PGE's earnings was 18 basis points in 2012 and 86 basis points in 2013, well within the bounds of acceptable risk between rate cases.<sup>14</sup> Further, the deferral amounts represent less than one percent of PGE's annual revenues for the years at issue.<sup>15</sup>

We also conclude that the deferral is not necessary to appropriately match the benefits and costs of PGE offering the pension plan. The evidence in the record shows that actual FAS 87 expense naturally fluctuates above and below the forecasted expense, and that under-collections in one period tend to be offset by over-collections in other periods. Considering the long-term under- and over-recoveries of FAS 87 expense in rates, we find no basis for singling out this 16-month period for unique rate-making treatment.

### B. *Commission's Discretionary Criteria for Deferral Request*

Even if we had found the deferral application met the statutory requirements for deferral, it fails to meet our discretionary standard. Based on the evidence in the record, the higher-than-expected FAS 87 expense during the deferral period constitutes a stochastic risk, meaning, it was a natural variation and requires a finding of "substantial" harm to justify deferred accounting.<sup>16</sup> PGE has not shown the overall financial impact of this event constitutes this level of harm.

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<sup>12</sup> See Order No. 09-108 at 3 (explaining, "[a]s 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").

<sup>13</sup> PGE in fact filed a rate case in 2013, during which the parties agreed to \$19.5 million in forecasted FAS 87 2014 test year expense, an increase from the \$5.1 million forecast FAS 87 expense used for setting rates in the previous rate case. Order No. 13-459 at 12 (adopting parties' conclusion that \$19.5 million in pension expense is reasonable amount). PGE filed its application for general rate revision on February 15, 2013; new rates went into effect January 1, 2014.

<sup>14</sup> Staff/100, Bahr/15 (Jan 22, 2016) (citing Staff/102, Bahr/1).

<sup>15</sup> *Id.* at 12-13.

<sup>16</sup> *In the Matter of Portland General Electric Company Application for an Order Approving the Deferral of Hydro Replacement Power Costs*, Docket No. UM 1071, Order No. 04-108 (Mar 2, 2004) (explaining, if a deferral application is based on an event deemed to be a stochastic risk, deferral is warranted only if the financial magnitude of the event is substantial), *aff'd*, Order No. 04-357 (Jun 25, 2004); *see also* Order No. 05-1070 at 7.

**III. ORDER**

IT IS ORDERED that:

1. Portland General Electric Company's request for authorization to defer for later rate-making treatment the difference between actual costs and the amounts included in general rates for FAS 87 pension expense is denied.
2. This docket is closed.

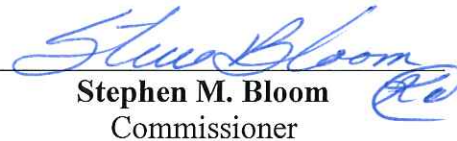
Made, entered, and effective JUL 07 2016.



**Lisa D. Hardie**  
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.