ORDER NO. 17 287

ENTERED JUL 27 2017

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 1789

In the Matter of PORTLAND GENERAL ELECTRIC COMPANY, Request for Prudence Review of Environmental Remediation Costs and Revenues Associated with the Portland Harbor Superfund Sites.	ORDER

DISPOSITION: STAFF'S RECOMMENDATION ADOPTED

This order memorializes our decision, made and effective at our July 25, 2017 Regular Public Meeting, to adopt Staff's recommendation in this matter. The Staff Report with the recommendation is attached as Appendix A.

Dated this 27 day of July, 2017, at Salem, Oregon.

Lisa D. Hardie
Chair

Stephen M. Bloom
Commissioner

COMMISSIONER DECKER WAS UNAVAILABLE FOR SIGNATURE

Megan W. Decker
Commissioner

PUBLIC UTILITY COMMISSION OF OREGON

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 Circuit Court for Marion County in compliance with ORS 183.484.

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ITEM NO. 2

PUBLIC UTILITY COMMISSION OF OREGON
REDACTED STAFF REPORT
PUBLIC MEETING DATE: July 25, 2017

REGULAR X **CONSENT** ___ **EFFECTIVE DATE** June 23, 2017

DATE: July 18, 2017

TO: Public Utility Commission

MPm SG

FROM: Mitchell Moore and Scott Gibbens

JC for JE

THROUGH: Jason Eisdorfer and Marc Hellman MH

SUBJECT: PORTLAND GENERAL ELECTRIC: (Docket No. UM 1789) Requests prudence review of environmental remediation costs and revenues associated with the Portland Harbor Superfund sites.

STAFF RECOMMENDATION:

Staff recommends that the Commission approve Portland General Electric Company's (PGE or Company) request and find that the Environmental Remediation Costs incurred from July 15, 2016 through December 31, 2016, as well as Harborton Restoration Project Development Costs, are prudent and eligible for transfer from the Portland Harbor Environmental Remediation Account (PHERA) Annual Account to the PHERA Balancing Account for future recovery via Schedule 149, if not offset by future revenues.

DISCUSSION:

Issue

Whether the Commission should approve PGE's request to find costs and revenues associated with the Portland Harbor Superfund site and Downtown Reach, and Harborton Restoration Project Development Costs (Harborton Development Costs), prudent for the review period of July 15, 2016 to December 31, 2016, and allow those amounts to be transferred to the PHERA Balancing Account.

Applicable Law

PGE submitted its filing in accordance with Commission Order 17-071, in Docket UM 1789 approving the PHERA cost recovery mechanism that tracks for later recovery certain eligible deferred costs and revenues. The Commission determined that costs and revenues associated with environmental remediation and restoration activities in the Portland Harbor and Downtown Reach, as well as Harborton Development Costs, would be reviewed annually for prudence prior to being transferred to the Balancing Account whereby costs would be offset by certain revenues and subsequently eligible for recovery through Schedule 149.

To determine whether a cost was prudently incurred and recoverable in rates, "the Commission examines the objective reasonableness of a company's actions measured at the time the company acted."[1]

Analysis

Background
The PHERA is a cost recovery mechanism (comprised of an Annual Account and a Balancing Account) that tracks and records costs and revenues associated with PGE's liability for environmental remediation and restoration in the Portland Harbor and Downtown Reach sites located in and along the Willamette River, as well as the Harborton Development Costs.[2] The mechanism tracks costs and revenues in the Annual Account prior to prudence review and then transfers prudently-incurred costs and revenues to the Balancing Account for recovery over a period of time according to the principles established in Order No. 17-071. Recovery of prudent costs may occur via an automatic adjustment clause through Schedule 149, after meeting an earnings test threshold, and being offset by revenues received from insurance recovery, and from Discount Service Acre Years (DSAY) sales.[3] Prior to the prudence determination, interest on costs and revenues accrue at the Company's authorized rate of return. After costs and revenues are deemed prudent and transferred to the Balancing Account, interest accrues at the average of the five-year U.S. Treasury rate plus 100 basis points (PURE Rate), which is updated annually.[4] For 2017, the PURE Rate is 2.87 percent.

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[1] *In re PacifiCorp, dba Pacific Power, Application for an Accounting Order Regarding Excess Net Power Costs, Docket No. UM 995, Order No. 02-469 at 4 (July 18, 2002).*
[2] See Order No. 17-071, Docket UM 1789 for complete background and detailed description of PHERA mechanism.
[3] DSAYs are credits generated by a restoration project that reflect quantified units of restored natural resources. These credits can be monetized and sold to other potentially responsible parties (PRPs).
[4] Order No. 07-071, Appendix A at 7.

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The Commission adopted the all-party stipulation creating the PHERA in Order No. 17-071. According to the Order, the Company is required to annually submit a report of its costs and revenues[5] for Staff to review for prudence prior to transfer to the PHERA Balancing Account. Staff has 120 days to complete its review and report its findings and recommendations to the Commission; however, if there are costs or revenues that Staff or other parties dispute as to prudence, an alternative review period exceeding 120 days will be developed.

Staff Review
Staff reviewed the Company's filing, associated workpapers, and Annual Report, in addition to issuing several data requests, to ensure that costs to be included in the PHERA Balancing Account are: a) actually incurred; b) solely incremental and associated with the environmental remediation and restoration activities as defined in Commission Order 17-071; c) reasonable; and d) correctly accounted for in the PHERA. Staff also reviewed the Company's accounting procedures to ensure that costs and revenues are accounted for in a manner consistent with Order No. 17-071.

During the reporting period of July 15, 2016 to December 31, 2016, PGE incurred [redacted] in total Environmental Remediation Costs (ERCs)[6], specifically:

- [redacted] for the Portland Harbor Superfund Site;
- [redacted] for Downtown Reach remediation activities;
- [redacted] in legal defense costs; and
- These amounts have accrued [redacted] in interest.

These ERCs are offset by [redacted] in Environmental Remediation Revenues (ERRs)[7] that are currently embedded in base rates and credited on a monthly basis to the PHERA Annual Account. The resulting balance of [redacted] should be transferred to the PHERA Balancing Account and applied as an offset to future prudent costs.[8]

Besides ERCs, the PHERA Accounts also hold Harborton Restoration Project Development Costs (Harborton Costs), but they are treated differently. Harborton Costs are not allocated for recovery by ratepayers, nor offset by insurance proceeds or other revenues, nor subject to the earnings review. Rather, these costs will be offset by revenues from the sale of DSAYs that are created as a result of the Harborton Project. However, Harborton Costs are also subject to prudence review by the Commission. To date PGE has incurred approximately [redacted] million in Harborton Development Costs,

[5] Potentially eligible costs and revenues are specifically defined in the stipulation and Order No. 17-071.
[6] ERCs are defined in Order No. 17-071 at 6.
[7] ERRs are defined in Order No. 17-071 at 6.
[8] See Confidential Attachment A – PGE's accounting summary of ERCs and ERRs in the PHERA.

out of an anticipated $10-$12 million in total costs when the restoration project is completed. Development costs have so far consisted of design and permitting activities, site preparation, and consultation with the Natural Resource Trustee Council.

Staff found minimal issues in its review of the calculation and compliance of PGE's accounting with Commission Order No. 17-071. However, Staff did find two line item transactions which were listed as accruals. Commission Order No. 17-071 states: only cash expenditures will be included in the PHERA Annual Account. Staff verified the nature of these transactions with the Company and found that they both represented cash expenditures and therefore were properly included in the PHERA Annual Account.

Staff also found that PGE included $37,328 in overhead allocation costs during the reporting period in its accounting of Harborton Development Costs. In its response to a Staff data request, PGE states that "prior to the implementation of the PHERA, Harborton Costs were included as a capital project within construction-work-in-progress (CWIP) and as a result, was subject to applicable labor loadings and allowance for funds used during construction (AFDC)....PGE believes it is appropriate to continue to include labor loadings within the Harborton Project since the fundamental nature of the project has not changed and retains the characteristics of a capital construction project."[9]

Staff agrees with PGE's position regarding inclusion of allocation overheads in Harborton Development Costs. Prior to implementation of the PHERA, these costs were booked to CWIP and accrued AFDC interest. Since CWIP and AFDC are not allowed in base rates, the Commission can be assured that they would not be paid for twice by ratepayers, as was Staff's concern. However, to be clear, with the exception of Harborton Development Costs, Staff does not believe that overhead allocations are appropriate to include in the PHERA for any other type of costs, as it would be too burdensome to track in each future rate case and confirm that these costs are indeed removed from the revenue requirement.

Staff found $93,431 in AFDC costs identified during the reporting period for Harborton development, rather than the rate of return interest agreed upon in the stipulation. PGE explains that the Commission Order approving the PHERA was not issued until after the Company's books for 2016 had closed, and thus Harborton Development costs pre-PHERA carried AFDC interest. Once the PHERA was implemented, the capital costs and AFDC was transferred to the PHERA. Because AFDC costs of 7.24% are lower than the rate-of-return interest that would have accrued instead, Staff finds that ratepayers are not harmed. Going forward, the rate-of-return interest on pre-prudence review costs and revenues will apply.

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[9] PGE response to Staff DR No. 86

Conclusion

Staff finds that the costs and revenues included in the PHERA Annual Account for the first annual review period are prudently-incurred, and the interest calculation complies with the stipulation and Commission Order No. 17-071. Staff notes that due to the fact that total ERC amounts were below $6 million, no earnings test is performed in this year prior to offsetting ERCs with ERRs. PGE also correctly kept Harborton Development Costs as a separate line item in the PHERA balancing account for better tracking of its costs to ensure the total revenues from the project exceed the development costs upon project completion. Staff found no issues with the calculations and believes that the subsequent balance in the PHERA Balancing Account is correct.

The Company has reviewed this memo and has stated no objections.

PROPOSED COMMISSION MOTION:

Approve PGE's request to find that the Environmental Remediation Costs from July 15, 2016 through December 31, 2016, as well all costs associated with the Harborton Development Project, are prudent and eligible to transfer to the PHERA Balancing Account for potential later amortization through Schedule 149.

PGE UM 1708(2)