

ORDER NO. **18 268**

ENTERED JUL 17 2018

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1789(2)

In the Matter of

PORTLAND GENERAL ELECTRIC
COMPANY,

Application for Reauthorization to Defer
Revenues and Costs Related to the
Environmental Remediation Costs Recovery
Adjustment, Schedule 149.

ORDER

DISPOSITION: STAFF'S RECOMMENDATION ADOPTED

At its public meeting on July 17, 2018, the Public Utility Commission of Oregon adopted Staff's recommendation in this matter. The Staff Report with the recommendation is attached as Appendix A.

BY THE COMMISSION:



A handwritten signature in blue ink, appearing to read "Michael Grant", is written over a horizontal line.

Michael Grant
Chief Administrative Law Judge


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.

PUBLIC UTILITY COMMISSION OF OREGON
 REDACTED STAFF REPORT
 PUBLIC MEETING DATE: July 17, 2018

REGULAR _____ CONSENT X EFFECTIVE DATE _____ Upon Commission Approval _____

DATE: July 9, 2018

TO: Public Utility Commission

FROM: Mitchell Moore and Scott Gibbens  

THROUGH: Jason Elsdorfer  and John Crider 

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 January 1, 2017 through December 31, 2017, as well as Harborton Development Costs, are prudent and eligible for transfer into the Balancing Account of the Portland Harbor Environmental Remediation Account (PHERA).

DISCUSSION:

Issue

Whether the Commission should approve PGE's request to find costs and revenues associated with the Portland Harbor Superfund sites for a one-year-period, prudent, and allow those amounts to be transferred to the PHERA Balancing Account.

Applicable Law

PGE submitted its annual prudence review filing in accordance with Commission Order No. 17-071 in Docket UM 1789 that approved the PHERA cost recovery mechanism, which includes a deferral and ratemaking mechanism for the treatment of costs and revenues associated with environmental remediation. The Commission determined that costs and revenues associated with environmental remediation and restoration activities in the Portland Harbor superfund site would be

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reviewed annually for prudence prior to being transferred to a balancing account whereby costs would be offset by certain revenues and in accordance with specific accounting parameters, and subsequently eligible for recovery through an amortization schedule.

To determine whether such costs were prudently incurred, "the Commission examines the objective reasonableness of a company's actions measured at the time the company acted."¹

Analysis

Description:

The PHERA is a cost recovery mechanism that uses a deferral, balancing account, and automatic adjustment clause to track and eventually net costs and revenues associated with PGE's liability for environmental remediation and restoration in the Portland Harbor Superfund sites located in and along the Willamette River.² The PHERA consists of two separate accounts, the PHERA Annual Account and the PHERA Balancing Account. Amounts are first tracked in the Annual Account and then amortized within the Balancing Account following application of the prudence review and earnings test. The PHERA also includes an automatic adjustment clause through Schedule 149 to enable PGE to recover prudent costs that meet an earnings test threshold that are in excess of revenues received from insurance recovery and from DSAY sales.³ The Commission approved the PHERA in Order No. 17-071, and as part of that approval, the Company is required to annually submit a report of its costs and revenues for Staff to review for prudence and for subsequent inclusion in the PHERA Balancing Account. Staff has 120 days to complete its review and report its findings and recommendations to the Commission.

Staff Review:

Staff reviewed the Company's filing, associated workpapers, and Annual Report, and followed up with 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

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) ("Prudence is determined by the reasonableness of the actions 'based on information that was available (or could reasonably have been available) at the time.'").

² See Order No. 17-071, Docket UM 1789 for complete background and detailed description of PHERA mechanism.

³ DSAY credits – Discount Service Acre Years credits generated by an approved restoration project and reflect quantified units of damaged natural resources restored to their original condition. These credits can be used to offset PGE's Natural Resource Damage obligation or be monetized and sold to other potentially responsible parties.

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the environmental remediation and restoration activities as defined in the Commission order; c) reasonable and prudent; and d) correctly accounted for in the PHERA. Staff also reviewed the accounting procedures to ensure that costs and revenues are accounted for in a manner consistent with the Stipulation and the Commission's Order No. 17-071, as well as the rules outlined in Schedule 149.

First, during the reporting period, PGE incurred approximately [REDACTED] in Environmental Remediation Costs (ERCs): [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) that are currently embedded in base rates and received from insurance proceeds and booked to the PHERA. [REDACTED] of the ERRs were recovered in base rates, [REDACTED] was from allocated insurance proceeds, and [REDACTED] from interest.⁴ Therefore, the resulting positive balance of [REDACTED] would be applied as an offset to future costs.⁵

Second, Harborton Restoration Project Development Costs (Harborton Costs) are also accounted for in the PHERA, but they are treated differently than other costs. These costs are not allocated for recovery by rate payers, nor offset by insurance proceeds, nor subject to earnings review. Rather, these costs will be offset by 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] in Harborton Costs, out of an anticipated \$10-\$12 million total costs when the project is completed. These costs are currently held in the PHERA Balancing Account to be offset by the expected DSAY revenues.

In Staff's review of the calculation and compliance of PGE's accounting with Commission Order No. 17-071, Staff found that PGE has complied with the Commission order. In Staff's estimate, the mechanism is functioning largely as expected at the time of implementation with the goal of reasonable recovery of prudent costs at minimal impact to customers. Staff notes one peculiarity in that interest earned in the annual account at the Company's authorized rate of return is not carried over from December 31 to January 1 of the following year, but instead held in a separate account until prudence determination. Then the earned interest from the prior year is moved to the PHERA balancing account while the interest earned on the balance subject to prudence review during the first half of the following year is not moved over. While slightly different from Staff's expectations, the treatment does not conflict with the Commission order and is deemed fair so long as it remains consistent over the life of the mechanism.

⁴ Following the conclusion of PGE's last general rate revision (UE 319), the recovery of environmental remediation costs has been removed from base rates.

⁵ See Confidential Attachment A – PGE's accounting summary of ERCs and ERRs in the PHERA.

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Staff also reviewed line item transaction costs for the Portland Harbor Superfund site, as well as Downtown Reach and legal defense costs, and finds these costs to be prudent and associated with appropriate environmental remediation activities.

Portland Harbor Superfund

PGE incurred costs that include membership and participation in a group formed to facilitate the allocation process between potentially responsible parties. The group has hired an allocation team to determine the share of cleanup costs that each party will be responsible for. The group also provides a joint defense to resolve the Environmental Protection Agency's claims against the parties.

Costs also include ongoing work to assess contaminant contributions to the Portland Harbor from activities conducted by PGE and other potentially responsible parties over time. PGE continues to prepare supplemental information for the Portland Harbor Natural Resource Trustee Council to consider in its liability assessment of PGE's natural resource damages (NRDs). PGE also conducted a stormwater source control evaluation of PGE's Rivergate substations.

Downtown Reach

Remediation costs in the Downtown Reach location include the design, permitting and construction of a sediment cap along the river, and performance monitoring of two existing sediment caps in different locations.

Legal Expenses

PGE has retained outside counsel to support allocation process activities, negotiations with EPA and DEQ regarding cleanup, and negotiations with the Natural Resource Trustee Council regarding assessment of NRDs.

Conclusion

Staff finds that the offsetting costs and revenues eligible for the PHERA Balancing Account, and interest calculation, fully complies with the stipulation and Commission order set forth in Docket No. UM 1789. Staff notes that due to the fact that total ERC amounts were below \$6 million, no earnings test is performed for these annual amounts prior to offsetting ERCs with ERRs. PGE also correctly kept Harborton development costs as a separate line item 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 any calculation and believes that the subsequent balance in the PHERA

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Annual Account is correct.

In addition, Staff believes that the costs submitted in PGE's filing are prudently incurred costs and should be transferred into the PHERA Balancing Account.

PROPOSED COMMISSION MOTION:

Approve PGE's request to find that the Environmental Remediation Costs and revenues from January 1, 2017 through December 31, 2017, as well as all costs associated with the Harborton Development Project, are prudent and eligible to transfer to the PHERA Balancing Account for amortization in accordance with the rules established in Order No. 17-071.