

ORDER NO. 19-347

ENTERED Oct 24 2019

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1789

In the Matter of

PORTLAND GENERAL ELECTRIC
COMPANY,

Prudence Review of Portland Harbor
Environmental Remediation Expenses.

ORDER

DISPOSITION: STAFF'S RECOMMENDATION ADOPTED

At its public meeting on October 22, 2019, 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 "Nolan Moser".

Nolan Moser
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.

ITEM NO. CA2

**PUBLIC UTILITY COMMISSION OF OREGON
REDACTED STAFF REPORT
PUBLIC MEETING DATE: October 22, 2019**

REGULAR CONSENT EFFECTIVE DATE October 22, 2019

DATE: October 14, 2019

TO: Public Utility Commission

FROM: Mitchell Moore and Scott Gibbens

THROUGH: Jason Eisdorfer and John Crider **SIGNED**

SUBJECT: PORTLAND GENERAL ELECTRIC: (Docket No. UM 1789) Prudence Review of Portland Harbor Environmental Remediation expenses.

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, 2018 through December 31, 2018, as well as Harborton Development Costs are prudent and eligible for recovery.

DISCUSSION:

Issue

Whether the Commission should approve PGE's request to find costs and revenues associated with the Portland Harbor Superfund sites prudent, and allow those amounts to be transferred to the Portland Harbor Environmental Remediation Account (PHERA).

Applicable Law

PGE submitted its filing in accordance with Commission Order 17-071, in Docket UM 1789, approving the PHERA cost recovery mechanism that includes a deferral of costs and revenues. The Commission determined that costs and revenues associated with environmental remediation and restoration activities in the Portland Harbor superfund site would be reviewed annually for prudence prior to being transferred to a balancing account whereby costs would be offset by certain revenues and subsequently eligible for recovery through an amortization schedule. To determine whether a cost was

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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

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 Review

Staff reviewed the Company’s filing, associated workpapers, and Annual Report to ensure that costs to be included in the PHERA are: a) actually incurred; b) solely incremental and associated with the environmental remediation and restoration activities as defined in the Commission Order; c) reasonable; 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.

During the reporting period, PGE incurred approximately **[Begin Confidential]** **[End Confidential]** in Environmental Remediation Costs (ERCs): **[Begin Confidential]** **[End Confidential]** for the Portland Harbor Superfund Site; **[Begin Confidential]** **[End Confidential]** for Downtown Reach remediation activities; **[Begin Confidential]** **[End Confidential]** in legal defense costs;

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 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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and these amounts have accrued **[Begin Confidential]** [REDACTED] **[End Confidential]** in interest. These ERCs are offset by **[Begin Confidential]** [REDACTED] **[End Confidential]** in Environmental Remediation Revenues (ERRs) from insurance recovery proceeds, interest accrual, and carry-forward amounts from previous year's offset. The net balance of ERC's for 2018 is **[Begin Confidential]** [REDACTED] **[End Confidential]** ⁴

Harborton Restoration Project Development Costs (Harborton Costs) are also accounted for in the PHERA but treated differently. 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 **[Begin Confidential]** [REDACTED] **[End Confidential]** million in Harborton Costs, out of an anticipated \$10-\$12 million total costs when the project is completed.

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.

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 incurred during this reporting period include the construction summary report and license agreement with Oregon Department of Transportation regarding potential contamination on their property for the sediment cap at River Mile

⁴ See Confidential Attachment A – PGE's accounting summary of ERCs and ERRs in the PHERA.

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13.1, performance monitoring of existing sediment caps at River Miles 13.3 and 13.5, and minor maintenance of the River Mile 13.5 cap.

Legal Expenses

Legal expenses incurred during this reporting period are from outside counsel retained by PGE and related to supporting the activities described above. Legal support is needed for the ongoing allocation process, negotiations with EPA and DEQ regarding cleanup, and negotiations with the Natural Resource Trustees regarding assessment of Natural Resource Damages.

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 UM 1789. Staff notes that due to the fact that total ERC amounts were below \$6 million, no earnings test is performed 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 any calculation and believes that the subsequent balance in the PHERA balancing account is correct.

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

PROPOSED COMMISSION MOTION:

Approve PGE's request to find that the Environmental Remediation Costs from January 1, 2018 through December 31, 2018, as well all costs associated with the Harborton Development Project are prudent and eligible to transfer to the PHERA balancing account for amortization.

CONFIDENTIAL PGE PHERA Prudence Review 2019