

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1991(2)

In the Matter of

PORTLAND GENERAL ELECTRIC
COMPANY,

Application for Reauthorization to Defer
Benefits or Costs Associated with Research
and Development Tax Credits.

ORDER

DISPOSITION: STAFF'S RECOMMENDATION ADOPTED

At its public meeting on January 12, 2021, the Public Utility Commission of Oregon adopted Staff's recommendation in this matter. The Staff Report with the recommendation is attached as Appendix A.ⁱ



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.

ⁱ The Estimate of Amounts paragraph on Page 3 of the Staff Report is corrected to read: The most recent vintage of the R&D tax credit associated with PGE's R&D study included the tax year 2019. PGE's cost of the study to determine the applicable R&D tax credit ~~2018~~ 2019 was approximately \$0.01 million and the resulting R&D tax credits were estimated to be approximately \$.27 million.

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: January 12, 2021**

REGULAR CONSENT EFFECTIVE DATE December 18, 2020

DATE: January 4, 2021

TO: Public Utility Commission

FROM: Mitchell Moore

THROUGH: Bryan Conway, John Crider, and Matt Muldoon **SIGNED**

SUBJECT: PORTLAND GENERAL:
(Docket No. UM 1991(2))
Requests authorization of Deferred Accounting of Research and
Development Tax Credits.

STAFF RECOMMENDATION:

Staff recommends that Portland General Electric's (PGE or Company) application for authorization to use deferred accounting for the net costs or benefits of Research and Development (R&D) tax credits be approved for the 12-month period beginning December 18, 2020.

DISCUSSION:

Issue

Whether the Commission should authorize PGE's use of deferred accounting for later rate making treatment of the net benefits associated with PGE's actual tax credits and the costs associated with a consultant to determine the proposed tax credits, effective December 18, 2020.

Applicable Rule or Law

PGE makes this filing pursuant ORS 757.259(2)(e) and OAR 860-027-0300.

ORS 757.259(2)(e) provides the Commission with discretion to authorize the deferral of identifiable utility expenses or revenues upon a finding that amounts should be deferred in order to minimize the frequency of rate changes or the fluctuation of rate levels or to match appropriately the costs borne by and benefits received by ratepayers.

PGE UM 1991(2)
January 4, 2021
Page 2

OAR 860-027-0300 generally sets forth the Commission's application requirements for deferrals and amortization of deferred amounts.

Unless subject to an automatic adjustment clause under ORS 757.210(1), amounts deferred are allowed in rates to the extent authorized by the Commission in a proceeding under ORS 757.210 to change rates and upon review of the utility's earnings at the time of application to amortize the deferral. ORS 757.259(4); OAR 860-027-0300(9).

The Commission's final determination on the amount of deferrals allowable in the rates of the utility is subject to a finding by the Commission that the amount was prudently incurred by the utility. ORS 757.259(5)

Analysis

Background

The R&D tax credit represents a federal and state income tax incentive for the performance of qualified research within the U.S. to develop new or improved products, processes, or software. The R&D tax credit is calculated as a percentage of qualified expenses determined by §41 of the Internal Revenue Code and by ORS 317.152. The R&D tax credit must be used before production tax credits ("PTCs") such that the use of R&D tax credits could delay the use of PTCs, which could increase the PTC carryforward balance.

In Order No. 18-464 (Docket No. UE 335), the Commission adopted the third partial stipulation (dated September 6, 2018), which specifies that PGE will hire a consultant to determine how much of PGE's costs qualify for the R&D tax credits. The stipulation also specifies that any net benefit resulting from the study would be refunded to customers and any net costs would be split evenly between PGE's customers and shareholders.

On December 18, 2018, PGE filed an initial application for deferral of net benefits or costs associated with PGE's R&D Tax Credits for the initial vintage of 2016-2018 tax credits. That filing also specified the projected flow of refunds and true-ups to actuals.

On December 18, 2019, PGE filed a supplemental application seeking reauthorization of this deferral for the net benefits and costs associated with the 2019 vintage of R&D tax credits.

This filing, made on December 17, 2020, requests reauthorization to continue deferred accounting for the 2020 vintage of R&D tax credits.

PGE UM 1991(2)
January 4, 2021
Page 3

In order to determine the R&D tax credit for each vintage, PGE expects to incur costs to pay for a consultant who will help PGE determine the amount of R&D tax credit by tax return year.

The Company returns net R&D tax credits to customers through the use of an automatic adjustment clause rate schedule 105. This schedule allows for yearly rate changes to reflect refund or collection of the applicable R&D tax credit vintages over time.

Proposed Accounting

For each applicable vintage, and on a yearly basis:

- If the Deferred Amount is a credit, PGE proposes to record it as a regulatory liability in FERC account, 254 Other Regulatory Liability, with a debit to FERC account 407.3 Regulatory Debits.
- If the Deferred Amount is a debit, PGE proposes to record it as a regulatory asset in FERC account 182.3, Other Regulatory Assets, with a credit to FERC account 407.4, Regulatory Credits.

In the absence of a deferred accounting order from the Commission, PGE states that it would continue to evaluate whether to pursue the R&D tax credit for shareholder benefit.

Estimate of Amounts

The most recent vintage of the R&D tax credit associated with PGE's R&D study included the tax year 2019. PGE's cost of the study to determine the applicable R&D tax credit 2018 was approximately \$0.01 million and the resulting R&D tax credits were estimated to be approximately \$.27 million.

PGE does not provide an estimate of tax credits for the 2020 tax year, as those will not be determined until that study is complete later in 2021.

Information Related to Future Amortization

- Prudence Review – The prudence review for amortization of this deferral should include verification that the revenues are appropriate. Further, the accounting methodology used to determine the final balance should be verified.
- Earnings review – Prior to amortization, an earnings review should be conducted pursuant to ORS 757.259(5).
- Sharing – The UE 335 stipulation states that all prudently incurred costs and benefits would be collected or refunded from or to customers:

PGE UM 1991(2)
January 4, 2021
Page 4

- PGE's customers will receive a refund of 100% of the Deferred Amount, when it is a net benefit.
- PGE's customers will receive a charge of 50% of the Deferred Amount, when it is a net cost.
- Three Percent Test (ORS 757.259(6)) – The three percent test measures the annual overall average effect on customer rates resulting from deferral amortizations. The three percent test limits (exceptions at ORS 757.259(7) and (8)) the aggregated deferral amortizations during a 12-month period to no more than three percent of the utility's gross revenues for the preceding year. Because PGE is an electric utility, ORS 757.259(8) allows the Commission to consider up to a six percent limit.
- Rate Spread/Design – The deferred amount eligible for amortization will be subject to a supplemental revenue schedule, grossed up for taxes, and allocated to each schedule using the applicable schedule's forecasted energy on the basis of an equal percent of revenues.

Conclusion

PGE's application requests reauthorization to defer, for future inclusion in customer rates, the net revenue associated with R&D tax credits beginning December 18, 2020. As the application is in accordance with the stipulation approved in Commission Order No. 18-464 and meets the requirements of ORS 757.259 and OAR 860-027-0300, Staff recommends PGE's application be approved. Staff also agrees that yearly amortization of net tax credits is appropriately accomplished through continued use of an automatic adjustment clause mechanism.

PROPOSED COMMISSION MOTION:

Approve PGE's application for authorization to use deferred accounting for the net costs or benefits of R&D tax credits for the 12-month period beginning December 18, 2020.