

ORDER NO. 21-029

ENTERED Jan 28 2021

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 2131

In the Matter of

PORTLAND GENERAL ELECTRIC
COMPANY,

Application for Deferral of Costs and Revenues
Associated with the Metro Supportive Housing
Services Tax.

ORDER

DISPOSITION: STAFF'S RECOMMENDATION ADOPTED

At its public meeting on January 26, 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.

BY THE COMMISSION:



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. CA5

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: January 26, 2021**

REGULAR CONSENT EFFECTIVE DATE January 1, 2021

DATE: January 12, 2021

TO: Public Utility Commission

FROM: John Fox

THROUGH: Bryan Conway and John Crider **SIGNED**

SUBJECT: PORTLAND GENERAL ELECTRIC:
(Docket Nos. UM 2131 and ADV 1221/Advice No. 20-48)
Application for Deferral of Costs and Revenues Associated with the Metro Supportive Housing Services Tax, New Tariff, and Automatic Adjustment Clause.

STAFF RECOMMENDATION:

Approve Portland General Electric's (PGE or Company) application requesting authorization for a deferred account for the 12-month period beginning on January 1, 2021.

Approve PGE's Advice No. 20-48, creating Schedule 103, for the collection of the Metro Supportive Housing Services Tax from customers that reside within the Metro jurisdiction.

DISCUSSION:

Issue

Whether the Commission should approve PGE's application for deferred accounting for the 12-month period beginning January 1, 2021, related to the Metro Supportive Housing Services Tax.

Whether the Commission should approve PGE's proposed Schedule 103 – Metro Supportive Housing Services Business Income Tax Recovery – which seeks to recover via an Automatic Adjustment Clause the annual forecast amount of the Metro

PGE Docket Nos. UM 2131 and ADV 1221/Advice No. 20-48
January 12, 2020
Page 2

Supporting Housing Services Tax and a true-up of the previous year's over- or under-recovery of tax relative to the Company's actual tax liability.

Applicable Rule or Law

Beginning with the date of the Application, the Commission may approve the deferral of identifiable utility expenses or revenues, the recovery or refund of which the Commission finds should be deferred in order to minimize the frequency of rate changes for the fluctuation of rate levels or to match appropriately the costs borne by and benefits received by ratepayers. ORS 757.259(2)(e) and (4). 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).

Under ORS 757.205(1), a public utility must file schedules showing all rates, tolls, and charges for service that have been established and are in force at the time. The Commission may approve tariff changes if they are deemed to be fair, just, and reasonable. ORS 757.210. Tariff revisions or corrections may be made by filing revised sheets with the information required under the Commission's administrative rules, including OAR 860-022-0005 and OAR 860-022-0025. Filings that make any change in rates, tolls, charges, rules, or regulations must be filed with the Commission at least 30 days before the effective date of the changes. ORS 757.220.

ORS 757.210(1)(b) defines "automatic adjustment clause" as "a provision of a rate schedule that provides for rate increases or decreases or both, without prior hearing, reflecting increases or decreases or both in costs incurred, taxes paid to units of government or revenues earned by a utility and that is subject to review by the commission at least once every two years."

ORS 757.269(1) states that "the Public Utility Commission shall act to balance the interests of the customers of the utility and the utility's investors by setting fair, just and reasonable rates that include amounts for income taxes" and "amounts for income taxes included in rates are fair, just and reasonable if the rates include current and deferred income taxes and other related tax items that are based on estimated revenues derived from the regulated operations of the utility."

PGE Docket Nos. UM 2131 and ADV 1221/Advice No. 20-48
January 12, 2020
Page 3

ORS 757.269(2)(e)(c) furthermore states that hearings to establish new rate schedules “reflect all known changes to tax and accounting laws or policy that would affect the calculated taxes.”

OAR 860-022-0025(2) requires that each energy utility changing existing tariffs or schedules must include in its filing a statement plainly indicating the increase, decrease, or other change made with the filing; the number of customers affected by the proposed change and the resulting change in annual revenue; and the reasons or grounds relied upon in support of the proposed change.

OAR 860-022-0045 states that, in part, if any county in Oregon imposes or increases taxes or licensing, franchise, or operating permit fees, the utility required to pay such taxes or fees shall collect the amount from its customers within the county imposing such taxes or fees.

Analysis

Background

In May 2020, voters in Multnomah County, Washington County, and Clackamas County approved a measure to raise money for supportive housing services for people experiencing homelessness or at risk of experiencing homelessness in the greater Portland area. The program is administered by the Portland Area Metropolitan Service District (Metro) and funded by a 1 percent tax on taxable income of more than \$125,000 for individuals and \$200,000 for couples filing jointly, and a 1 percent tax on profits from businesses with gross receipts of more than \$5 million. The taxes are effective for tax years beginning on and after January 1, 2021.

Metro is organized under the provisions of Oregon Revised Statutes Chapter 268 and the Metro Charter. The Metro Council is the governing body of Metro. On December 17, 2020, the council adopted ordinances necessary to implement the new tax.¹ However, administrative rules are still pending and are expected to be issued in early 2021.

PGE Filings

The Company requests that the Commission consider the advice filing and application for deferred accounting simultaneously.

On November 13, 2020, the Company filed an application (docketed at UM 2131) requesting:

¹ Ordinance Nos. 20-1452, 20-1453, and 20-154.

PGE Docket Nos. UM 2131 and ADV 1221/Advice No. 20-48
January 12, 2020
Page 4

An accounting order authorizing PGE to defer for later rate-making treatment costs and revenues associated with the Metro Supportive Housing Services (MSHS) Tax pursuant to Metro Measure 26-210. In addition, this filing is being made to initiate a deferral that will support an automatic adjustment clause rate schedule with an associated balancing account mechanism to track the ongoing costs and recovery amounts related to the MSHS Tax. PGE requests that this deferral be effective as of January 1, 2021, the date the MSHS tax goes into effect.

And which further states:

To address the cost and recovery associated with the MSHS Tax, PGE proposes to establish a balancing account and mechanism similar to that used for the Multnomah County Business Income Tax (MCBIT – see Docket No. UM 1986 and PGE Schedule 106). Specifically, PGE proposes to defer both the MSHS Tax expense along with the revenues collected from a MCBIT-type tariff. The separate tariff is necessary to collect the MSHS Tax only from the Metro customers to which it applies.

On December 29, 2020, the Company filed Advice No. 20-48, Schedule 103, Metro Supportive Housing Services Business Income Tax (docketed as ADV 1221) to be effective April 1, 2021. The application states the following:

PGE used the same methodology for estimating the MSHS Business Income Tax that is used to calculate Schedule 106, the Multnomah County Business Income Tax. PGE's estimate of the MSHS for 2021 is \$1.5 million. However, given that this is a new tax and the ultimate tax amount remains uncertain the actual tax amount may differ. PGE's proposed balancing account and automatic adjustment clause, will allow PGE to true up the differences between PGE's estimated MSHS collected under Schedule 103 and its actual MSHS expense. These differences will be credited or charged to customers through an annual update of Schedule 103 prices.

The proposed Schedule 103 price is applied on a percentage basis of customers' bills with the exceptions outlined in the proposed tariff, similar to PGE's Schedule 106 Multnomah County Business Income Tax for customers in Multnomah County. PGE is proposing an effective date of April 1, 2021, to allow PGE to update its billing system, so only customers who live within Metro's jurisdiction in Clackamas, Multnomah and Washington Counties will receive the Schedule 103 charge.

PGE Docket Nos. UM 2131 and ADV 1221/Advice No. 20-48
January 12, 2020
Page 5

The proposed Schedule 103 price included in this filing was calculated based on revenues received from all customers who live within Clackamas, Multnomah and Washington counties. However, not all customers in those counties are within Metro and PGE is working to identify Customers within Metro. Prior to the April 1, 2021 effective date, PGE will supplement this filing with an updated Schedule 103 price which will only include revenues from customers residing in those counties within Metro's jurisdiction.

To satisfy the requirements of OAR 860-022-0025(2) and 860-22-0030, the Company provides the following information:

The proposed Schedule 103 rate change will result in a 0.095% overall rate increase for approximately 740,000 Clackamas, Multnomah and Washington County Customers within Metro's jurisdiction. A typical Schedule 7 Residential Customer consuming 800 kWh monthly will see a bill increase of approximately \$0.09.

Proposed Accounting

PGE states that tax payments will be debited to FERC Account 242 Current Regulatory Liability and credited to FERC Account 407.4 Regulatory Credit. Tariff revenues will be credited to FERC Account 242 and debited to FERC account 407.4.

Estimated Deferral in Authorization Period

Using PGE's 2019 income tax filing as proxy, PGE estimates the MSHS Tax amount to be deferred during 2021 to be \$1.5 million dollars.

Information Related to Future Amortization

- Earnings Review – The MSHS Tax deferral will be subject to an automatic adjustment clause rate schedule, where all associated costs and revenues will flow through the established balancing account, and would not be subject to an earnings review under ORS 757.259.
- Prudence Review – A prudence review should be performed by the Commission Staff as part of their review of PGE's general rate case filings.
- Sharing – All prudently incurred costs are to be recoverable by PGE with no sharing mechanism.
- Rate Spread/Design – The MSHS Tax costs will be allocated among all of PGE's Metro customers on an equal cents per kilowatt-hour basis.

Discussion

Staff concurs with the Company's proposal to structure recovery of the MSHS tax using a mechanism identical to the MCBIT. OAR 860-022-0040 and OAR 860-022-0045

PGE Docket Nos. UM 2131 and ADV 1221/Advice No. 20-48
January 12, 2020
Page 6

pertain to tax recoveries of cities and counties, respectively. While Metro is a unique entity, the tax itself is based on net income rather than a franchise arrangement. In fact, the staff reports associated with the Metro ordinances indicate the Metro Council's intent to adopt an income apportionment method consistent with that used by Multnomah County and the use of the MCBIT as a guide for implementing the MSHS tax.²

The Commission recently considered the relationship of Multnomah Business Income Tax (MCBIT) balancing accounts and Automatic Adjustment Clauses (AAC) in Order No. 18-126.³ In that case, the Commission reaffirmed that a cost of service AAC requires ongoing annual deferrals in conjunction with a balancing account if rates are to be adjusted based on over -or under -collected amounts.⁴ As such, ongoing annual deferrals will be necessary for this docket.

PGE has confirmed via informal inquiry that the Company intends to file annual deferral reauthorizations.

The Company's UM 2131 application also indicates that a prudence review will occur in the Company's next general rate case filing. However, the Commission is charged with ensuring that rates are fair, just, and reasonable prior to authorization. As such, with each proposed annual rate change, Staff will review and verify forecast annual amounts to be collected in rates, actual taxes paid the previous year, and the over- or under-collection proposed to be included in rates from the subsequent year.

Conclusion

For the reasons stated above, Staff recommends the Commission approve PGE's request for authorization of a deferred account for the 12-month period beginning on January 1, 2021, and a new tariff, Schedule 103, implementing a rate schedule to recover from customers the Metro Supportive Housing Services Tax subject to the supplemental filing to only include revenues from customers residing in those counties within Metro's jurisdiction as noted in the Company's deferral application.

² See Metro Council Meeting Agenda, Ordinance 20-1454 Staff Report, December 17, 2020: <https://oregonmetro.legistar.com/View.ashx?M=AO&ID=96448&GUID=f1dd486a-112e-4435-a791-7727520b9f7d&N=TWVldGluZyBQYWNRZXQ%3d> accessed December 30, 2020.

³ See *In the MATTER OF PACIFICORP, dba PACIFIC POWER, Advice No. 18-001 (ADV 726), updates Schedule 103, Multnomah County Business Tax (MCBIT) Rate for 2018*, Docket No. UE 338, Order No. 18-126, Apr 12, 2018.

⁴ *Id* at 4.

PGE Docket Nos. UM 2131 and ADV 1221/Advice No. 20-48
January 12, 2020
Page 7

PROPOSED COMMISSION MOTION:

Approve Portland General Electric's application requesting authorization for a deferred account for the 12-month period beginning on January 1, 2021.

Approve PGE's Advice No. 20-48, implementing Schedule 103, used to collect the Metro Supportive Housing Services Tax from customers residing within the Metro jurisdiction.

UM 2131 ADV 1221 PGE Metro Supportive Housing Services Tax.docx