

ORDER NO. 21-030

ENTERED Jan 28 2021

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 2037(1)

In the Matter of

PORTLAND GENERAL ELECTRIC
COMPANY,

Application for Reauthorization to Defer
Costs Associated with the Oregon Corporate
Activities Tax (OCAT).

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. CA6

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

REGULAR ____ **CONSENT** X **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 No. UM 2037(1))
Application for Reauthorization to Defer Costs Associated with the Oregon
Corporate Activities Tax.

STAFF RECOMMENDATION:

Approve Portland General Electric's (PGE or Company) application for reauthorization to defer costs for the Oregon Corporate Activities Tax (CAT), estimated to be approximately \$7.5 million, beginning January 1, 2021, through December 31, 2021.

DISCUSSION:

Issue

Whether the Commission should approve PGE's application for reauthorization to defer costs for the Oregon Corporate Activities Tax, estimated to be approximately \$7.5 million in 2021.¹

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

¹ Application at 4.

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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 2019 Oregon Legislative Assembly approved a new Corporate Activity Tax effective January 1, 2020.

The tax is imposed on the privilege of doing business in Oregon, based on Oregon-sourced commercial activities and is not a transactional tax nor an income tax—it is a modified gross-receipts tax. However, apportionment and tax administration will occur pursuant to existing income tax statutes.

The tax is in addition to any other taxes or fees imposed by the State of Oregon and will be imposed at a rate of \$250 plus 0.57 percent of taxable commercial activity in excess of \$1 million each year. Taxable commercial activity is defined as commercial activity sourced in this state less a subtraction for 35 percent of the greater of “cost inputs” or “labor costs.”²

In Order No. 20-029, the Commission approved PGE's application requesting authorization for deferred accounting beginning on January 1, 2020, and a new tariff, Schedule 131, implementing a rate schedule, balancing account, and automatic adjustment clause for the Oregon Corporate Activity Tax with the condition that the tariff will terminate and the tax will be included in base rates at a future date to be agreed upon by the parties.

Description of Expense and Reason for Deferral

The Company states:

This deferral would continue the use of an automatic adjustment clause and be subject to annual renewals until the Oregon CAT is included in base rates at a future date. In accordance with Commission authorized accounting, amounts in the Oregon CAT balancing account will continue to roll forward and can have either positive or negative (i.e., debit or credit) balances.³

² ORS 317A.125 and 317A.119.

³ Application at 3.

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And further states:

[T]he imposition of this tax was unforeseen and unpredictable, thus PGE was unable to include this in a prior forecast or include within a prior rate proceeding. The continuation of the deferral will minimize the frequency of rate changes and match appropriately the costs borne by and benefits received by customers. Approving the Application will support continued use of an automatic adjustment clause associated with PGE Schedule 131.

Proposed Accounting

PGE proposes to continue to defer the tax payments as debits to FERC Account 242 (Current Regulatory Liability) and credits to FERC Account 407.4 (Regulatory Credit). Amortization through Schedule 131 is credited to FERC Account 242 and debited to FERC Account 407.4. Interest is accrued on the balance at the approved modified blended treasury rate.⁴

Estimated Deferral in Authorization Period

PGE estimates the amount to be deferred during the 12-month period beginning January 1, 2021, to be approximately \$7.5 million dollars.

Information Related to Future Amortization

- Earnings Review – Cost recovery associated with this deferral will be subject to an automatic adjustment clause, PGE Schedule 131, 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 payment of CAT expenses and cost recovery.
- Sharing – All prudently incurred costs are to be recoverable by PGE with no sharing mechanism.
- Rate Spread/Design – The rate spread/rate design will be performed in accordance with Schedule 131 as a percentage of revenues with some exclusions.

Conclusion

Staff concludes that approval of this deferral for the period January 1, 2021, through December 31, 2021, is consistent with the resolution of the CAT previously approved in Order No. 20-029 and that deferral of these amounts will match costs borne by and benefits received by ratepayers.

⁴ Application at 4.

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Additionally, in Staff's view, the amount of ongoing CAT expense is now reasonably estimable and should be rolled into base rates in the Company's next general rate case, consistent with the Commission's treatment of the CAT for other regulated utilities.

PROPOSED COMMISSION MOTION:

Approve PGE's application for reauthorization to defer for later ratemaking treatment costs for the Oregon Corporate Activities Tax, estimated to be approximately \$7.5 million beginning January 1, 2021, through December 31, 2021.

UM 2037(1) PGE OCAT 2021 OCAT Deferral.docx