

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1789

In the Matter of

PORTLAND GENERAL ELECTRIC
COMPANY,

Prudence Review of Portland Harbor
Environmental Remediation Expense.

ORDER

DISPOSITION: STAFF'S RECOMMENDATION ADOPTED

At its public meeting on December 27, 2022, 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.

**PUBLIC UTILITY COMMISSION OF OREGON
REDACTED STAFF REPORT
PUBLIC MEETING DATE: December 27, 2022**

REGULAR **CONSENT** **EFFECTIVE DATE** _____ **N/A** _____

DATE: December 16, 2022

TO: Public Utility Commission

FROM: Kathy Zarate

THROUGH: Bryan Conway, Marc Hellman, and Matt Muldoon **SIGNED**

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

STAFF RECOMMENDATION:

Approve Portland General Electric Company's (PGE or Company) request to find that the Portland Harbor Environmental Remediation Costs and Harborton Development Costs incurred from January 1, 2021, through December 31, 2021, 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

The PHERA cost recovery mechanism, which includes a deferral of costs and revenues and the Company's corresponding Schedule 149, were first approved by the Commission in Order No. 17-071. The deferral was most recently reauthorized by the Commission in Order No. 22-465, which authorized a 12-month deferral effective July 20, 2022.

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In Order No. 17-071, dated March 2, 2017, 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 prudently incurred and recoverable in rates, “the Commission examines the objective reasonableness of a company’s actions measured at the time the Company acted.”

Analysis

Background

The PHERA is a cost recovery mechanism that tracks and records 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. The mechanism includes an automatic adjustment clause to enable PGE to recover prudent costs that are in excess of revenues received from insurance recovery, and from DSAY sales, subject to an earnings test. The Commission approved the PHERA in Order No. 17-071, and as part of that approval, the Company is required to submit annually a report of its costs and revenues for Staff to review for prudence and subsequent inclusion in the PHERA balancing account.

This report, which is protected information subject to protective Order No. 16-270, covers the reporting requirements set forth in Commission Order No. 17-071.

Staff Review

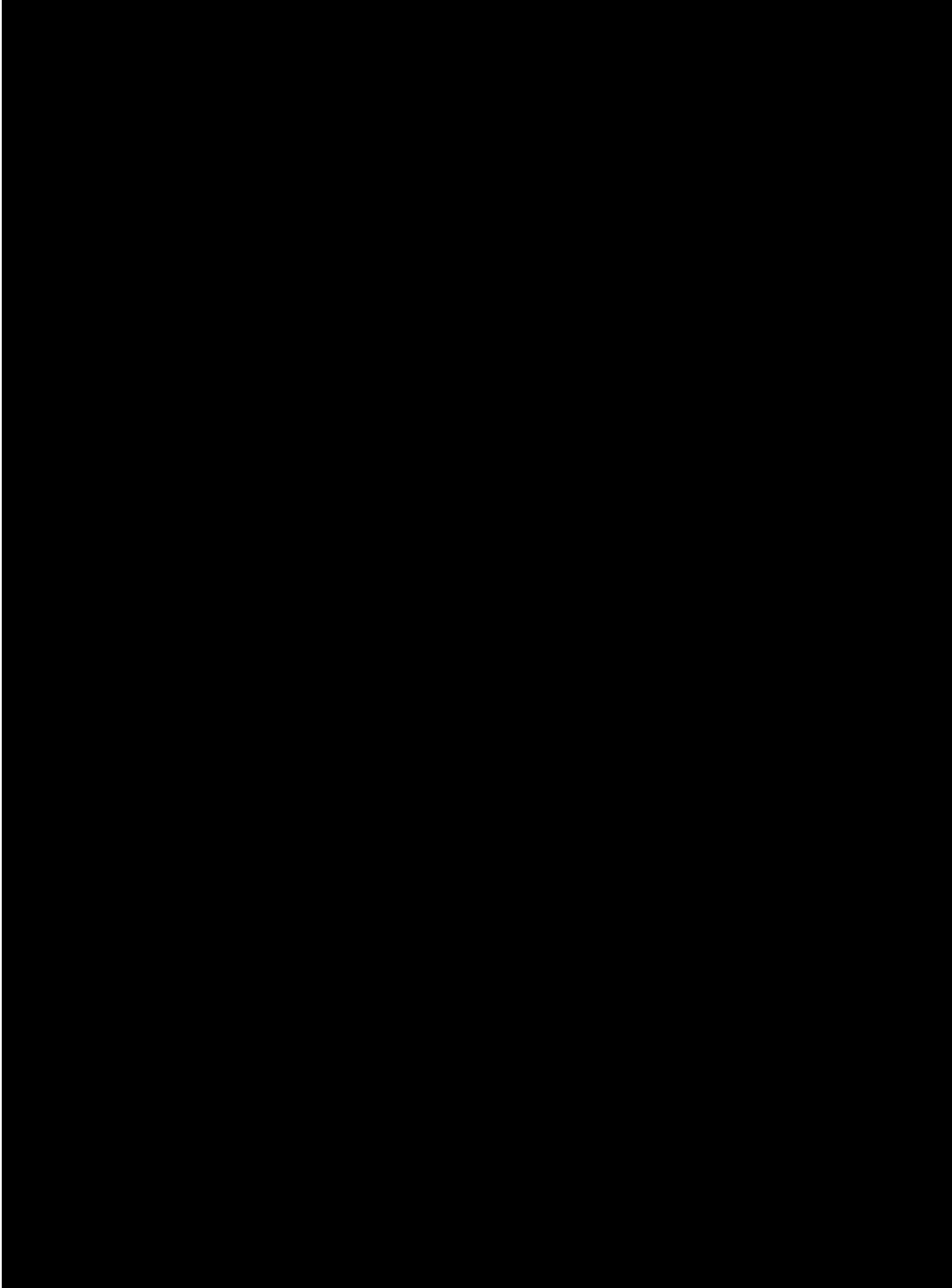
Staff reviewed the Company’s filing, associated work papers, and Annual Report to ensure that costs to be included in the PHERA are:

- 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.

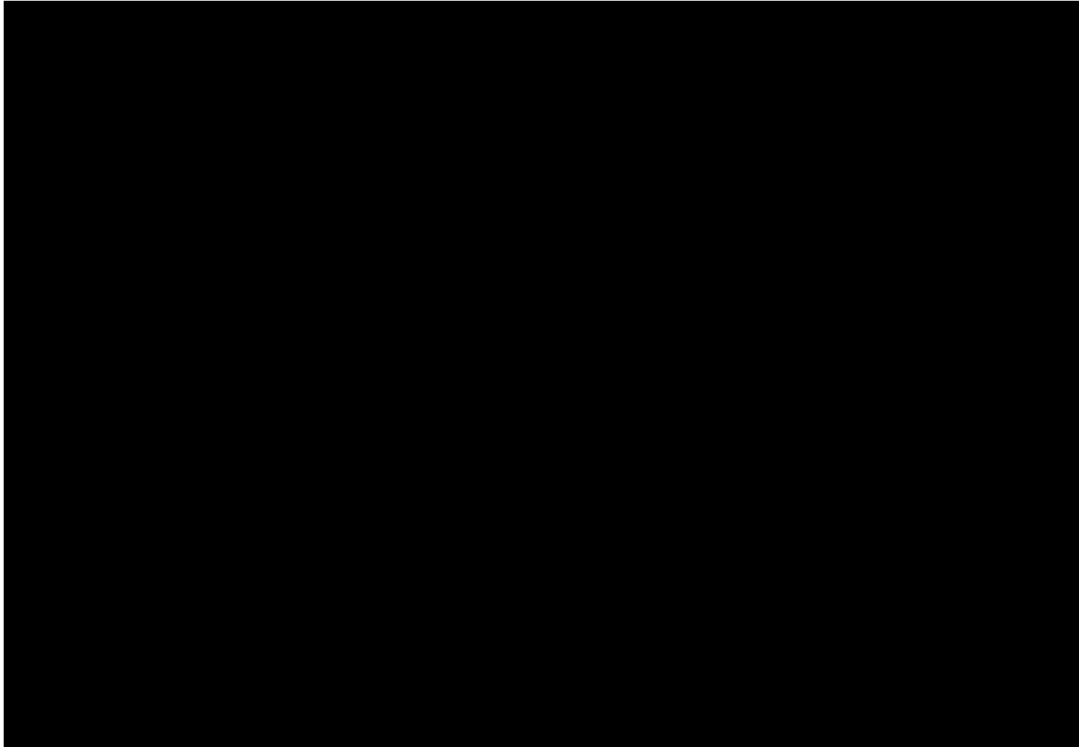
In addition, Staff reviews the Company’s filing to confirm all amounts reported represent transactions that occurred between January 1, 2021, and December 31, 2021.

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[END CONFIDENTIAL].

Balancing account

After reducing the annual ERC balance in the PHERA Annual Account by any overearnings as provided, the remaining ERC and Harborton Restoration Project development costs are offset by that year's AAR.

- If ERC and Harborton Restoration Project costs remain, they are equally allocated across the following five years in the Balancing Account, and are not subject to an additional earnings test. However, if ERC (after being reduced by any overearnings if ERC is above \$6 million) and Harborton Restoration Project development costs in the PHERA Annual Account are less than that year's AAR, then the positive remaining ERR balance will offset accumulated ERC and Harborton Restoration Project development costs in the PHERA balancing Account that were allocated to that year. Any remaining balance is carried forward as an addition to the next year's AAR in the PHERA Balancing Account.

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[END CONFIDENTIAL].

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Portland Harbor Superfund Costs

- Participation in the harbor Participation and Common Interest Agreement (PCI) Group. The PCI group employs professional consultants to help determine the share of harbor cleanup costs for each responsible party, and also provides a joint defense to resolve the Environmental Protection Agency's (EPA) claims against the parties.
- Historical research, technical and legal analysis to estimate contaminants as well as assessing responsibility for those contaminants.
- Review and negotiation of consent decrees for the Portland Harbor Natural Resource Trustee Council to finalize PGE's natural resource damages (NRD) liability.
- Completion of implementation of source control at PGE's Rivergate Substations.

Downtown Reach Remediation Costs

Costs incurred during this period include review of the draft Certificate of Closure memorandum for DEQ, and performance monitoring of existing sediment caps.

Legal Expenses

Outside legal support is utilized for the allocation process, negotiations with EPA and DEQ regarding cleanup, and negotiations with the Natural Resource Trustees and US Department of Justice regarding assessment of NRDs.

Harborton Project Development Costs

Project design and permitting, interaction with the Trustees and regulatory agencies (DEQ, Oregon Department of State Lands, and United States Corps of Engineers), reimbursement costs for technical assistance provided by the Natural Resource Trustee Council, and project construction.

ERC Contingent Accruals

PGE shall defer, separately track, and capitalize as a regulatory asset, contingent environmental liability accruals. This regulatory asset shall not be included in rate base and PGE shall not earn a return on the balance.

Earnings Test

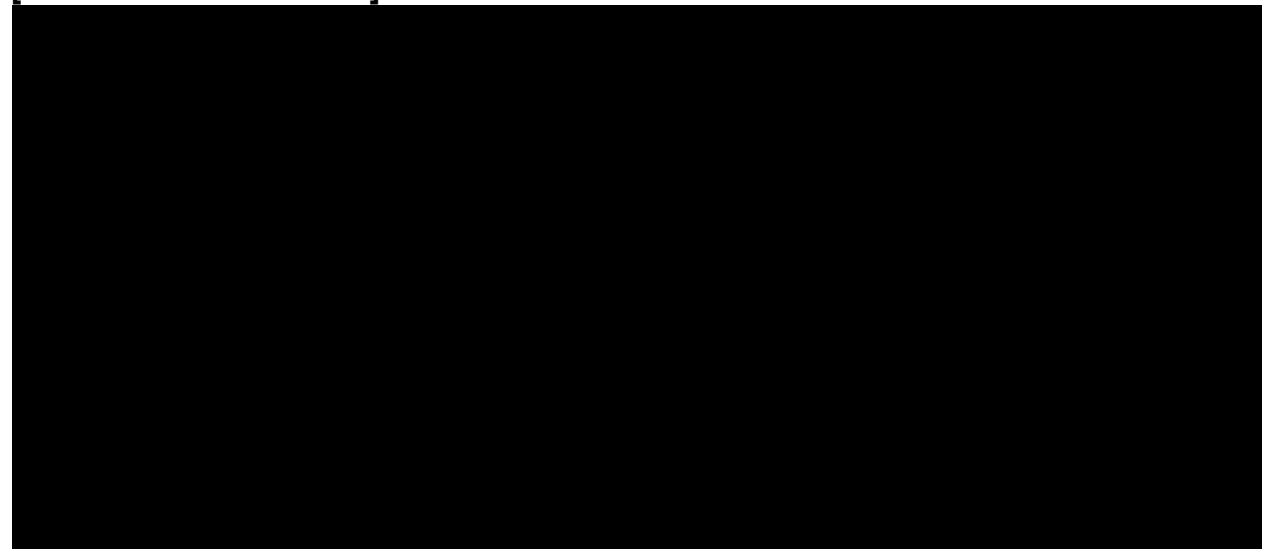
Commission Order No. 17-071 provides that the first \$6.0 million of prudently-incurred environmental remediation costs are exempt from an earnings test. For 2021, the total amount of environmental remediation costs is \$4.9 million and thus not subject to an earnings test.

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PGE's filed Results of Operations for 2021 is 8.72 percent, which is well below the authorized level of 9.5 percent. Therefore, if 2021 environmental remediation costs were exceeding the \$6.0 million threshold, any amounts exceeding \$6.0 million would have been subject to an earnings test based on PGE's 2021 reported ROE.

See below for a summary of ERC including the current year activity as of December 31, 2021.

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Conclusion

Staff finds that the offsetting and interest calculation fully complies with the stipulation and Commission Order set forth in UM 1789. PGE 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 calculation errors, 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.

The Company has reviewed this memo and agrees with its content.

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PROPOSED COMMISSION MOTION:

Approve PGE's request to find that the Portland Harbor Environmental Remediation Costs incurred from January 1, 2021 through December 31, 2021, as well as Harborton Development Costs, are prudent and eligible for recovery.

PGE UM 1789 PHERA Prudence Review 2021 CONF