

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UE 197

In the Matter of

PORTLAND GENERAL ELECTRIC
COMPANY,

Request for a general rate revision.

ORDER ON
RECONSIDERATION

DISPOSITION: RECONSIDERATION GRANTED; ORDER CLARIFIED
AND MODIFIED

I. SUMMARY

In this order, we reconsider certain aspects of the decoupling mechanism proposed to Portland General Electric Company (PGE) and described in Order No. 09-020. We clarify that recovery under the decoupling mechanism is allocated by the respective customer class contribution. We also eliminate the recovery of adjustments in excess of 2 percent of the approved revenue requirement via deferral accounts. We do not reopen the record to admit the testimony proffered by the Citizens' Utility Board of Oregon (CUB). Within 10 business days of the issuance of this order, PGE shall notify the Commission whether it accepts or declines the revised decoupling mechanism.

II. INTRODUCTION

In Order No. 09-020, entered January 22, 2009, we decided all of the remaining issues in PGE's request for a general rate revision. Among our conclusions was the determination that because "PGE does have the ability to influence customer usage, we believe that a properly constructed decoupling mechanism would promote behavior by the Company that would be publicly beneficial. Accordingly, PGE may refile tariffs to implement its proposed SNA and LRR"¹ subject to a number of conditions set out in the order. Among the conditions were an initial limitation on the length of the program to two

¹ Order No. 09-020 at 28. "SNA" and "LRR" are acronyms for the two decoupling mechanisms, Sales Normalization Adjustment and Lost Revenue Recovery, respectively. The former acronym applies to residential and small business and "other" customers, while the latter acronym applies to larger commercial and industrial customers with loads less than one average megawatt. See discussion *infra*.

years, subject to a review and a 10 basis point reduction in Return on Equity (ROE). Consistent with PGE's original proposal, the fixed cost-recovery true-up mechanism, to be implemented in Schedule 123, would consist of an SNA balancing account applied to residential (Schedule 7) and small non-residential (Schedules 32 and 532) customers, as well as an LRR mechanism applied to large non-residential customers with loads less than one average megawatt. In applying the fixed-cost recovery true-up mechanism, any amount in excess of 2 percent of the revenue requirement that might accrue would roll over, with interest, to future years.

III. DISCUSSION

On March 24, 2009, CUB timely filed an Application for Reconsideration of Order No. 09-020, Section III.B.12, PGE Decoupling Proposal (Application). The Application was supported by proffered testimony, identified as UE 197/CUB/300-305. CUB asks that we reconsider the decoupling proposal we offered to PGE in our order for several reasons. First, the decoupling mechanism focuses on *average*, rather than the *marginal*, fixed costs, which, according to CUB, overcompensates PGE for reductions in load and increasing its profits when customers suffer economic adversity, rather than when they respond to energy efficiency incentives. Second, CUB asserts that there is new evidence that the economy has worsened since the case record was compiled. CUB also opines that the load forecast submitted by PGE and adopted in our Order overestimated demand. CUB further asserts that the current recession will create a bigger decoupling adjustment than the energy efficiency adjustment discussed in the record. Finally, CUB contends that the recession will lead to a decoupling adjustment that could last several years, *i.e.*, well beyond the two-year period we envisioned.

To rectify these alleged deficiencies, CUB proposes a number of technical changes and asks us to address certain policy issues. These may be summarized as follows:

A. Technical Changes

1. Redefine "active residential customer." Currently, PGE's definition includes residences connected for service but unoccupied, resulting in a \$786 surcharge before a new home is occupied. The recession has caused longer periods of vacancy with only minimal use for "showing" houses. The Commission should remove vacant homes from the calculation. Houses that have had their electricity shut off should also not be counted as customers for decoupling benefits purposes.
2. Redefine "active small business customer." Where a business in a rental property closes and the landlord keeps the power on, but with very little use, or where the business has reduced its hours or laid off employees

or reduced working hours or shifts, the business should be excluded from the calculation.

3. ORS 757.355 “used and useful” standard and the “active customer.” The transformer and other distribution assets of vacant homes and businesses should not be in the rate base and other customers charged for them.
4. The decoupling mechanism does not clearly address how decoupling adjustments will be spread across customer classes. It should follow the methodology used by PacifiCorp to keep benefits within classes so that residential customers are not shouldering businesses’ burden.
5. ROE reduction should be reflected in PGE’s ROE adjustment from Order No. 09-020 in the 2009 Power Cost Adjustment Mechanism.

B. Policy Questions

1. The Commission should consider whether decoupling is appropriate during a recession. The cap on adjustments will cause rollover to future years, complicating review of decoupling and causing customers to oppose renewal of decoupling for many years. CUB believes a 2 percent “hard cap” will limit PGE to \$38 million in exchange for a reduction in ROE of less than \$4 million.
2. Decoupling should be based on marginal, not average, fixed cost recovery per kWh. The decoupling mechanism, as currently structured, assumes that PGE recovers its fixed costs equally across all kWh of electricity purchased by a customer. That assumption is false. PGE has a variety of energy sources with widely varying costs, and these are dispatched hierarchically, using the lowest cost resource first. Some resources, like wind, have little variable cost, so when these resources are used, nearly all of the customer revenue goes to fixed cost.
3. The Commission should consider suspending decoupling mechanism for now and reserve it for

more normal economic circumstances. Decoupling should itself be subject to a cost-effectiveness test.

On April 8, 2009, PGE timely filed an Opposition to CUB's Application for Reconsideration, responding to each of the positions and assertions raised by CUB. PGE contends that CUB's arguments and proffered evidence are not new, because the Commission approved decoupling over CUB's concerns about the economy and placing the risk of recession on customers.

PGE also responds that CUB's selective updating of the load forecast is an unprincipled violation of established ratemaking principles. Rates are supposed to be based on forecasts for the test-year period. PGE also claims that CUB's arguments are based on information that was previously discoverable and uses false assumptions. According to PGE, even vacant houses use energy, and PGE assumes 44,500 vacancies in its load forecast, more than CUB assumes.

PGE adds that the definition of "active customer" is clear and needs no clarification. If service is still being provided and the customer receives a bill, it is an "active customer." Similarly, PGE finds that CUB's "used and useful" argument is unpersuasive. Even a minimally used house has infrastructure needs that are used and useful.

Next, PGE argues that the decoupling should be based on average, not marginal, fixed costs per kwh. PGE explains that "variable fixed costs" are an oxymoron, because fixed costs are not variable when considered over a two-year period. PGE adds that the Commission sets rates on average not marginal forecasted costs, and points out that the decoupling mechanism is consistent with that principle.

Finally, PGE contends that CUB's proposals regarding the "hard cap," "cost effectiveness test," and suspension during severe recession should have been raised during the original proceeding, and provide no basis for reconsideration.

IV. ANALYSIS AND OPINION

The statutory standard for rehearing or reconsideration, set forth in ORS 756.561(1), which provides that the Commission "may grant such a rehearing or reconsideration if sufficient reason therefor is made to appear." The implementing rule, OAR 860-014-0095, further provides that the Commission may grant an application for rehearing or reconsideration if the applicant shows that there is:

- (a) New evidence which is essential to the decision and which was unavailable and not reasonably discoverable before issuance of the order;
- (b) A change in the law or agency policy since the date the order was issued, relating to a matter essential to the decision;

- (c) An error of law or fact in the order which is essential to the decision; or
- (d) Good cause for further examination of a matter essential to the decision.

We find that CUB has met the ORS 756.561(1) statutory standard, having provided “sufficient reason” for us to reconsider our decision. We decline, however, to adopt CUB’s request to reopen the record. The prospect of a recession was extensively addressed and analyzed in the docket. While the extent of the current recession is not yet known, were we to reopen the record and allow for the introduction of new evidence via the hearing process, we would consume a considerable portion of what is already only a two-year-long program. Immediate, but circumscribed reconsideration is, in our view, a preferable path. For that reason, we neither admit, not rely on, the testimony offered by CUB in its Application.

We also decline to make extensive changes to the two-year decoupling mechanism. We still firmly believe that decoupling mechanisms are an integral part of overall energy policy for the purpose of removing utility disincentives to assist in the acquisition of cost-effective energy efficiency. Nonetheless, given the short duration of the program, and the uncertainty of the severity of the recession, a prudent course of action is to limit the current decoupling method’s potential long term impact.

We therefore conclude that the 2 percent “soft cap,” which would cause amounts in excess of that figure to be transferred to interest-bearing deferred accounts to be recovered in rates after the two-year decoupling mechanism has expired, should be modified to an absolute limit or “hard cap” upon PGE’s recovery of fixed costs in usage-based rates. With this adjustment, the risk to customers is limited and defined. Any amount remaining in the deferred account after application of the 2 percent rate cap in the second year of rate adjustments will not be eligible for recovery.

We also clarify our prior order to affirm that it has been our intent that decoupling adjustments will be spread across customer classes so that PGE recovers amounts based upon the customer class contribution to the decoupling adjustment balance.² This method keeps benefits within classes so that residential customers are not shouldering the burden of fixed costs due to a decline in business electricity usage.

Given that we have revised the decoupling mechanism previously offered and accepted by PGE, it is necessary and appropriate to provide PGE the opportunity to accept or decline the revision. PGE must provide written notification to the Commission, within 10 business days from the issuance of this order, whether it accepts the decoupling mechanism, as revised by this order.

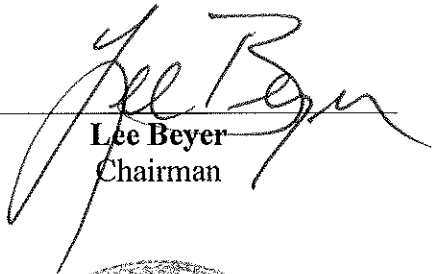
² PGE concurs in this view and has been administering its accounts accordingly. See PGE Opposition at 11.

IV. ORDER

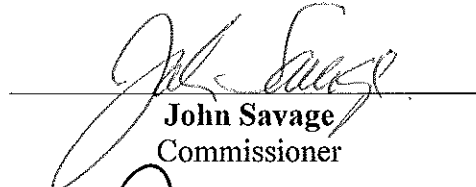
IT IS ORDERED that:

1. Order No. 09-020, entered January 22, 2009, is revised to clarify and revise the decoupling mechanism as set forth in this order. The remainder of the order is unchanged. Portland General Electric Company's continued use of the decoupling mechanism is contingent upon its acceptance of the revisions and clarifications adopted in this order.
2. Within 10 business days of the issuance of this order, Portland General Electric Company must provide written notice to the Commission whether it accepts the decoupling mechanism, as revised by this order.

Made, entered, and effective MAY 19 2009 .



Lee Beyer
Chairman



John Savage
Commissioner



Ray Baum
Commissioner



A party may appeal this order by filing a petition for review with the Court of Appeals in compliance with ORS 183.480-183.484.