

**ITEM NO. 3**

**PUBLIC UTILITY COMMISSION OF OREGON  
STAFF REPORT  
PUBLIC MEETING DATE: January 29, 2002**

**REGULAR**  **CONSENT**  **EFFECTIVE DATE** \_\_\_\_\_

**DATE:** January 17, 2002

**TO:** John Savage through Lee Sparling & Jack Breen

**FROM:** Deborah Garcia

**SUBJECT:** PORTLAND GENERAL ELECTRIC: (Docket No. UM 1040) Requests authorization to defer for later ratemaking treatment certain advertising costs.

**STAFF RECOMMENDATION:**

I recommend that the Commission adopt the attached stipulation<sup>1</sup>; and approve Portland General Electric Company's application to defer amounts spent on Category A advertising in excess of the final amount approved in UE 115, for the 12-months beginning October 1, 2001, with reporting requirements. Approval will be for accounting purposes only and does not constitute approval for ratemaking purposes.

**BACKGROUND:**

Category A advertising expense is defined by rule<sup>2</sup> and the level of Category A expense presumed to be just and reasonable in a utility rate case is prescribed by rule.<sup>3</sup> Portland General Electric (PGE or Company) originally requested that 4.1 million dollars of Category A expense be allowed in rates on an annual basis in its UE 115 filing. Staff's analysis determined that PGE's requested amount exceeded the amount presumed to be just and reasonable by approximately 2.4 million dollars annually.

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<sup>1</sup> See attachment 1 for a copy of the explanatory brief & stipulation entered into by PGE, CUB, & PUC Staff.

<sup>2</sup> OAR 860-026-0022 (2)(a) Presumptions of Reasonableness of Advertising Expenses in Utility Rate Cases Category "A" – Energy efficiency or conservation advertising expenses that do not relate to a Commission-approved program, utility service advertising expenses, and utility information advertising expenses;

<sup>3</sup>OAR 860-026-0022 (3)(a) Presumptions of Reasonableness of Advertising Expenses in Utility Rate Cases Advertising expenses in Category "A" are presumed to be just and reasonable in a rate proceeding to the extent that expenses are twelve and one-half hundredths of 1 percent (0.125 percent) or less of the gross retail operating revenues determined in that proceeding;

During the UE 115 proceeding, Staff recognized that PGE would have short-term advertising expense associated with the implementation of Electric Restructuring that would drive advertising expense higher than the level of expense normally incurred in the past and higher than the amount presumed to be just and reasonable by rule. What Staff did not know was how long that higher level of spending would be necessary. If PGE was allowed to embed 4.1 million dollars into rates on an annual basis until the next rate case, there would be no guarantee that the money would be spent for advertising in future years before the rate case, much less for advertising appropriately allocated to Category A. There is no mechanism that allows retroactive ratemaking and if the amount budgeted for Category A advertising was not spent, the Commission could not have retrieved the difference for customers. To the extent the present rates continue, the savings to consumers also continue year-to-year.

At Staff's suggestion, a settlement of the issue was reached in UE 115 that PGE could defer actual incurred Category A expense that exceeded the amount allowed in rates (as opposed to some proposed budgeted amount) on an annual basis if PGE agreed to an audit of all Category A expense each year. The results of Staff's audit would be available for review before the Commission decided how much of the deferral to amortize into rates. Normally, an audit of this expense would not be conducted on an annual basis because the expense is already embedded in rates. The settlement protected customers by ensuring that they pay only prudently incurred expenses. The settlement was memorialized in the stipulation adopted in Order 01-777.

Based on subsequent revenue changes, the Category A amount currently in rates is approximately \$1.9 million.

## **DISCUSSION:**

On October 1, 2001, PGE filed an application under ORS 757.259 and OAR 860-027-0300 asking, in accordance with the stipulation in Order 01-777, for approval by the Commission to defer Category A advertising that exceeds the amount currently allowed in rates.

On October 25, 2001, Staff sent two Data Requests to PGE asking how the Company arrived at its estimated amount for deferral and requesting a description and estimate of costs associated with each program the Company anticipates will be included in the deferral account.

At the December 11, 2001 Public Meeting, Staff recommended that the Commission approve Portland General Electric's (PGE or Company) deferral application recognizing that any amount deferred would be subject to audit for proper categorization and prudence and would not automatically be amortized into future rates.

During the Public Meeting, Bob Jenks of the Citizens' Utility Board (CUB) raised a concern that the Company was proposing to spend more, between the amount embedded in rates and the estimated amount of the deferral account, than the \$4.1 million originally requested in the UE 115 rate case. Mr. Jenks also raised a concern regarding the possibility that the stipulation, as written and adopted in Order No. 01-777, could conceivably give PGE a "blank check" regarding the amount of Category A advertising that could eventually be amortized into rates. Mr. Jenks proposed that the Commission qualify approval of the deferral account application by capping the amount of expense that could be deferred.

The Commission decided to postpone a decision on the application to allow further review of the matter.

On December 27, 2001, PGE, CUB, and Staff held a conference call to discuss the filing and to explore whether a settlement of the issues could be negotiated. An agreement was reached that satisfied the concerns of each party. All parties entered into the attached stipulation<sup>4</sup>, to memorialize the agreement.

In the stipulation, the parties agreed that PGE may defer all Category A advertising expense for the 12-month period beginning October 1, 2001. At the end of the period, PGE will provide to Staff and other interested parties, all necessary materials for a thorough audit, for prudence and proper categorization, of the expense. After the Staff audit is completed, PGE may request in a future rate making proceeding that the Commission authorize amortization of either part or the entire amount PGE has deferred, with the following caveat. PGE may not seek to amortize into rates more than \$1,920,793 of the deferred amount. The cap on the amortization into rates of deferred Category A expense ensures that this 12-month period of Category A expense is limited to \$3.8 million which is less than the amount PGE originally requested in its UE 115 case.

During the above-mentioned conference call, Staff asked PGE to provide an updated budget, by program, of PGE's Category A advertising costs for October 1, 2001 to September 30, 2002 and for the calendar year 2002. PGE's informational response is attached to this report as Attachment 2.

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<sup>4</sup> See attachment 1

**PROPOSED COMMISSION MOTION:**

The stipulation attached to Staff's Public Meeting Report in Attachment 1 be adopted and Portland General Electric's application to defer amounts spent on Category A advertising in excess of the final approved in UE 115 be approved for the 12-months beginning October 1, 2001. The Company is further directed to file a report documenting all Category A expenses with the Commission, within 45 days after the end of each quarter, for the 12-month period.

Approval will be for accounting purposes only, and does not constitute approval for ratemaking purposes.