

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: December 23, 2008**

REGULAR _____ **CONSENT** X **EFFECTIVE DATE** December 31, 2008

DATE: December 3, 2008

TO: Public Utility Commission

FROM: Lisa Gorsuch and Carla Owings

THROUGH: Lee Sparling, Ed Busch, and Judy Johnson

SUBJECT: PORTLAND GENERAL ELECTRIC: (Docket No. UM 1186(4)) Defers Independent Spent Fuel Storage Installation state tax credit cost reductions.

STAFF RECOMMENDATION:

Staff recommends Portland General Electric's (PGE or the Company) request for deferral of Independent Spent Fuel Storage Installation (ISFSI) State Tax Credits beginning December 31, 2008, for the 2008 tax year, be approved for accounting purposes only. Ratemaking treatment should be reserved for a ratemaking proceeding.

DISCUSSION:

On November 18, 2008, PGE filed a request for reauthorization to defer ISFSI tax credits pursuant to OAR 860-027- 0300(3), beginning on December 31, 2008, for the 2008 tax year. The Commission issued Order Nos. 05-136, 06-117, 07-084 and 08-152, approving the same deferral for the 2004, 2005, 2006, and 2007 tax years, respectively.

The ISFSI is a dry cask storage system, which provides storage for the spent nuclear fuel assemblies and radioactive waste generated at the Trojan plant during the years in which it produced energy. PGE, PacifiCorp and the Eugene Water and Electric Board jointly own the Trojan plant.

On December 9, 2004, the Environmental Quality Commission granted PGE approval on the final certification of ISFSI expenditures, authorizing a total of \$21.1 million (50% of PGE's share of the certified costs). The State Tax Credits are authorized for use on a

straight-line basis over ten tax years, with a carry-forward provision that allows any particular tax year's provision to be postponed for up to three tax years.

For any tax year, the maximum Deferral Amount is \$2.25 million (\$21.1 million over 10 tax years, after federal tax effect and using a Net to Gross Factor of 1.65).

For the 2007 tax period, PGE was able to apply a portion of the available credits and carry-forward to its taxable income. For the 2008 tax period, PGE estimates adding approximately \$2.3 million to the deferred account if PGE earns adequate taxable income to use all the credits available. If PGE's tax expense is less than the ISFSI tax credit offset, the Company proposes to defer the maximum possible credit considering the potential for a carry-forward in a future tax year. PGE seeks to maximize the potential of the entire ISFSI Tax Credit considering its taxable income and its tax expense accruals.

The Company proposes to accrue interest at its current authorized cost of capital, which is 8.29 percent. Interest will accrue appropriate to the timing of actual cash benefits received by PGE. When payments to taxing entities are reduced by tax credits, then the Company will post the equivalent into the deferral account. PGE will request approval to extend this deferral on an annual basis.

Reason for Deferral

PGE seeks approval of this deferral pursuant to ORS 757.259(2)(e). This deferral will minimize the frequency of rate changes and match appropriately the costs borne and benefits received by ratepayers. PGE's customers have paid for the ISFSI project through their annual contribution to the Trojan Nuclear Decommissioning Trust, and PGE has committed that customers should receive the benefits of these tax credits.

Absent the deferral mechanism, PGE would seek changes in its base rates to reflect ISFSI tax credits in order to pass the credits to its customers. The Company has agreed to waive any argument pursuant to ORS 757.259(5) requiring the Commission to consider an earnings test prior to approval of the amortization.

Proposed Accounting

PGE proposes to record the deferral as a regulatory liability in FERC Account 254 (Other Regulatory Liabilities) and debit FERC Account 407.3 (Regulatory Debits). Absent approval of this deferral, PGE's net income would increase as a result of lower state tax expense.

Estimate of Amount

PGE has provided workpapers to Staff showing a projection of the account balance as of December 31, 2009, of approximately \$16 million. Staff has reviewed the calculations for this estimated balance and recommends the Commission approve PGE's request to defer ISFSI tax credits for the 2008 tax year.

PROPOSED COMMISSION MOTION:

Portland General Electric's request for deferral of Independent Spent Fuel Storage Installation (ISFSI) State Tax Credits beginning December 31, 2008, for the 2008 tax year, be approved for accounting purposes only. Ratemaking treatment should be reserved for a ratemaking proceeding.