



Portland General Electric Company
121 SW Salmon Street • Portland, Oregon 97204
PortlandGeneral.com

September 21, 2009

Via Electronic Filing and U.S. Mail

Oregon Public Utility Commission
Attention: Filing Center
550 Capitol Street NE, Ste. 215
Salem OR, 97308-2148

**Re: UM 1373 – Deferral of Investigation and Remediation Response Costs
Associated with the Portland Harbor and Harbor Oil Superfund Sites
Cleanup and Restoration**

Attention Filing Center:

Enclosed for filing in the captioned docket are an original and five copies of:

Direct Testimony and Exhibits of Portland General Electric Company:

- **PGE/100-101, 102C, 103-105/Behbehani-Divers and Hager/Environmental Investigation and Remediation Cost Deferral**

Included are confidential and non-confidential portions. The confidential portion is in a separately sealed envelope and subject to Protective Order No. 08-240. Please do not post on the OPUC website.

An extra copy of the cover letter is enclosed. Please date stamp the extra copy and return to me in the envelope provided. Thank you in advance for your assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Patrick G. Hager".

Patrick G. Hager
Manager, Regulatory Affairs

CERTIFICATE OF SERVICE

I hereby certify that I have this day caused the foregoing **DIRECT TESTIMONY AND EXHIBITS OF PORTLAND GENERAL ELECTRIC COMPANY** to be served by electronic mail to those parties whose email addresses appear on the attached service list, and by First Class US Mail, postage prepaid and properly addressed, to those parties on the attached service list who have not waived paper service from OPUC Docket No. UM 1373.

Dated at Portland, Oregon, this 21ST day of September, 2009.



PATRICK C. HAGER

Summary Report**UM 1373 PORTLAND GENERAL ELECTRIC****Category:** Miscellaneous

In the Matter of

PORTLAND GENERAL ELECTRIC COMPANY

Application for Deferral of Investigation and Remediation Response Costs Associated with the Portland Harbor and Harbor Oil Superfund Sites Cleanup and Restoration (w/waiver of paper service).
Filed...**Filing Date:** 3/31/2008**Case** OWINGS, CARLA (503) 378-6629**Law Judge(s):** KIRKPATRICK, TRACI (503) 378-6683**SERVICE LIST:**STEPHANIE S ANDRUS -- CONFIDENTIAL
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**BEFORE THE PUBLIC UTILITY COMMISSION
OF THE STATE OF OREGON**

UM 1373

**Deferral of Investigation and
Remediation Response Costs Associated
with the Portland Harbor and Harbor Oil
Superfund Sites Cleanup and Restoration**

Portland General Electric Company



Portland General Electric

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SEP 22 2009

Public Utility Commission of Oregon
Administrative Hearing Division

September 21, 2009

**BEFORE THE PUBLIC UTILITY COMMISSION
OF THE STATE OF OREGON**

**Environmental Investigation
and Remediation Cost Deferral**

Direct Testimony

Portland General Electric Company

*Arya Behbahani-Divers
Patrick G. Hager*

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SEP 22 2009

Public Utility Commission of Oregon
Administrative Hearing Division

September 21, 2009

Environmental Investigation and Remediation Cost Deferral

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I. Introduction

1 **Q. Please state your names and positions with Portland General Electric.**

2 A. My name is Arya Behbehani-Divers. I am the Manager of Environmental Services at PGE.
3 I am responsible for compliance with environmental regulations as it pertains to generation
4 and distribution of electricity.

5 My name is Patrick Hager. I am the Manager of Regulatory Affairs at PGE. I am
6 responsible for analyzing PGE's cost of capital, including its Required Return on Equity.

7 Our qualifications appear in Section V of this testimony.

8 **Q. Please describe this filing.**

9 A. In March 2009, PGE filed for reauthorization of its deferral for environmental costs. PGE's
10 initial request, made in March 2008, was granted by the Commission in February 2009.
11 This testimony supports our reauthorization request. PGE also seeks Commission guidance
12 on the application of an earnings test to amounts deferred across multiple fiscal or calendar
13 years.

14 **Q. How is your testimony organized?**

15 A. After this introductory section, we present and explain PGE's proposal to defer recovery of
16 incremental costs associated with the environmental projects in this docket. Next, we
17 discuss the challenges associated with forecasting and recovering environmental costs. We
18 then discuss the standards for deferred accounting and the application of an earnings test to a
19 multi-year deferral. We follow with a discussion of alternative recovery methodologies
20 should the Commission find reauthorization of the deferral inadequate. Finally, we provide
21 a summary of each project in PGE's deferral request, including an explanation of future
22 costs and efforts.

1 **Q. What is the current amount subject to deferral under the reauthorization for the**
2 **March 30, 2009 to March 30, 2010 period?**

3 A. From March 2009 through July 2009, PGE will defer approximately \$2.0 million. However,
4 PGE expects to incur additional costs during the remainder of the deferral period.

A. Deferral Request

5 **Q. Please describe PGE's request for deferral of environmental costs.**

6 A. On March 31, 2008, pursuant to ORS 757.259 and OAR 860-027-0300, PGE requested
7 authorization to defer for later ratemaking treatment PGE's allocated share of certain
8 environmental costs associated with the Portland Harbor and Harbor Oil Superfund Sites.
9 These costs would include investigation, study, oversight, and likely remediation. The
10 Commission approved the initial deferral in its Order No. 09-052 issued February 6, 2009.
11 On March 30, 2009, PGE filed for reauthorization of the deferral since it was about to
12 expire. The amount subject to deferral for the March 30, 2008 to March 30, 2009 period
13 was approximately \$0.8 million (excluding interest). PGE included the Oak Grove facility
14 in the reauthorization filing.

15 **Q. Is adding incremental projects to the environmental deferral reasonable?**

16 A. Yes. Adding incremental environmental projects to a deferral reauthorization is consistent
17 with Commission practice, for example in NW Natural's UM 1078, which has had
18 numerous projects added to its environmental deferral reauthorizations.

19 **Q. What is the purpose of this testimony with regard to the three sites?**

20 A. Staff raised concerns to PGE and other intervening parties regarding the reauthorization of
21 PGE's deferral. This testimony is to address those concerns and support PGE's request for
22 reauthorization.

B. Challenges

1 **Q. Please describe the issues associated with recovery of environmental costs.**

2 A. There are several characteristics that make environmental cost recovery challenging,
3 including:

- 4 1. Environmental costs are difficult to forecast
- 5 2. Environmental costs usually result from one-time events; seldom recurring
- 6 3. Environmental costs are limited in their capacity to be managed
- 7 4. The expenses may be accrued in a year in which the associated activities do not take
8 place

9 We address each of these characteristics in greater detail below.

1. Forecast Difficulty

10 **Q. Please describe the first characteristic, how environmental costs can be difficult to**
11 **forecast.**

12 A. By their very nature, environmental costs associated with larger Comprehensive
13 Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), 42 USC
14 §§9601 et seq. cleanup sites are difficult to forecast because of the significant volume and
15 complexity of work required to determine the cause, scope, remediation, and cost allocation
16 for any contamination. This is especially true for sites that involve bodies of moving water
17 and sediment transport that may change contamination of particular areas over time.
18 Typical approaches to investigate and determine the extent of contamination and who should
19 either be responsible for performing cleanup or pay for such cleanup include the following:

- 20 ▪ Potentially Responsible Parties (PRPs) are identified by the regulatory agency
21 (Environmental Protection Agency or the state), and once identified may be held
22 legally (under state and/or federal law) *jointly and severally* liable for all costs

1 associated with cleanup of a site. That is, with respect to CERCLA liability, each
2 PRP is individually responsible for the entire cost of investigating and cleaning up
3 a site. However, such PRPs are also jointly liable, meaning that PRPs have a right
4 of contribution against other PRPs. Thus, a particular PRP's costs are ultimately
5 contingent on the number of other PRPs that are identified. Bankruptcies,
6 recalcitrant (i.e., non-participating) parties, and litigation amongst PRPs can all
7 affect an individual party's costs, even when the contamination and remediation is
8 clearly delineated. In many instances at large sites, PRP numbers continually
9 change, making costs for any particular party a moving target.

- 10 ■ Once PRPs are identified, the regulatory agency typically requests that they
11 voluntarily perform a Remedial Investigation (RI).¹ Often, parties with the largest
12 potential liability will step forward to perform an RI because they can control the
13 investigation and because the costs may be recovered from the other PRPs
14 through later settlement processes or litigation. RIs generally involve developing
15 a grid/boundary for the first set of tests and evaluating samples for specific
16 contaminants of concern. After the first round of analysis, based on the results
17 from the lab test, another set of samples will be taken to identify the nature and
18 extent of contamination. Further rounds of sampling and analysis may follow
19 until the site is fully characterized. If the results of the investigative work are
20 conclusive and provide a basis for appropriate decision making, then the project
21 will move forward to a Feasibility Study (FS).

¹ If no party steps forward to perform a remedial investigation, regulatory agencies may either perform the RI themselves and collect costs or compel parties to perform, subject to treble damages for non-performance.

- 1 ▪ During the FS processes, various methods of cleanup are evaluated, a cost
2 effectiveness analysis of possible remedies is conducted, and remedies are tested
3 against legally required standards.
- 4 ▪ After the FS is finished, the regulatory agency will evaluate and select a remedy
5 that will achieve appropriate regulatory criteria and produce the desired results.
- 6 ▪ Only at that stage can a reliable cost estimate be developed, by working with
7 remedial action contractors.
- 8 ▪ During the remediation process, samples are taken to ensure that contaminant
9 levels are being reduced to appropriate levels. If they are not and/or additional
10 contaminants are discovered, the scope of remediation will change and, in turn,
11 the cost will change. This is an iterative process and there is often additional
12 complexity because these projects can involve numerous stakeholders (e.g.,
13 Portland Harbor), each of whom can potentially influence costs. Consequently, it
14 can take several years to determine the remediation and who is responsible.
- 15 ▪ At the same time as these regulatory-driven processes are taking place, or shortly
16 thereafter, PRPs typically will engage in a voluntarily settlement process to
17 allocate remediation cost and performance responsibility. This process, known as
18 an “Allocation”, usually involves hiring an Allocator who will aid the parties in
19 determining how to apportion the costs among themselves. Often, a very large
20 number of parties (and their legal counsel) are involved, so the allocation process
21 can be contentious and it is a source of considerable uncertainty leading into the
22 remediation process. If a successful settlement is not reached among a substantial
23 number of PRPs, litigation is most certainly likely to ensue, and the regulatory

1 agency may issue unilateral orders to individual PRPs requiring them to perform
2 the remedy and pay for the agency's cost recovery.

- 3 ■ Also, under CERCLA and related state law, and usually in parallel with the RI/FS
4 and Allocation processes, a somewhat similar process concerning natural resource
5 damages must be conducted. The natural resource damages assessment (NRDA)
6 is conducted and enforced by a group of natural resource trustees, who include
7 designated state and federal agencies, as well as tribal interests. Natural resource
8 damages are damages to biological and geological resources, as well as
9 recreational and cultural uses related to the site. These environmental costs for
10 many CERCLA sites have been known to approximate the total RI/FS and
11 remediation costs. Like the Allocation process, the NRDA process can involve
12 huge uncertainty and take many years to complete.

13 Environmental cleanup is a complex and dynamic process, which makes accurately
14 forecasting costs extremely difficult.

2. Non-recurring

15 **Q. Please discuss the second characteristic, the non-recurring nature of environmental**
16 **costs.**

- 17 A. Some ongoing environmental costs relating to regular facilities operations are recurring and
18 can be reasonably predicted and accounted for in base rates. However, many projects,
19 particularly the large remediation projects, tend to be non-recurring. An example of a
20 recurring environmental cost is the cleanup of insulating fluids from transformers. Each
21 year, PGE poles are accidentally damaged by weather, vehicles, etc. and if a transformer is
22 on the pole, there is potential for a spill. Thus, PGE includes in its budget an estimate of
23 such accidents.

1 Other projects, such as the Portland Harbor site cleanup, are not recurring and not
2 reasonably predictable. These projects are unique and stem from a series of events that led
3 to contamination. Test-year ratemaking is generally reserved for known, measurable, and
4 recurring costs. Significant one-time items are often removed from base rates. Thus, in the
5 case of non-recurring projects such as Portland Harbor, Harbor Oil, and Oak Grove, it is
6 uncertain that such costs would be included in base rates. An exception to this would be for
7 certain and recurring costs related to non-recurring projects as discussed in Section I.B.2.
8 PGE's only options for the non-recurring costs are to file a deferral or pursue an alternative
9 mechanism for recovery. One of these two is needed to include both environmental costs
10 and insurance recovery, minimize the frequency of rate changes, and provide PGE the
11 opportunity to earn a fair and reasonable return.

3. Capacity for PGE Management

12 **Q. Please describe the third characteristic, how environmental costs are not subject to**
13 **PGE management?**

14 A. As mentioned above, there are usually many parties implicated in the cleanup at a particular
15 CERCLA site. In the case of Portland Harbor, there are currently 80 identified PRPs. A
16 small portion of these PRPs (approximately 10) formed the Lower Willamette Group
17 (LWG) and entered into an Administrative Order on Consent (AOC) for Remedial
18 Investigation/Feasibility Study with the Environmental Protection Agency (EPA) and agreed
19 to pay for and perform the RI/FS. PGE did not wish to incur significant up front costs and
20 perform the RI/FS, and thus is not a party to the LWG agreement with EPA. Although costs
21 associated with an RI/FS must be borne by all PRPs, getting other parties to contribute must
22 be accomplished through an allocation process or through expensive contribution litigation.
23 As we discussed previously, such processes are risky, complex, and time consuming.

1 **Q. Why is PGE incurring costs when it is not a member of the LWG?**

2 A. Members of the LWG who have signed the AOC are legally obligated to incur the cost of
3 performing the RI/FS, subject to later reallocation and contribution recovery. These RI/FS
4 costs, plus the costs and responsibility for remediation of the Portland Harbor site, are
5 currently being allocated among participating PRPs in a separate allocation process
6 (discussed in further detail later in this testimony). PGE is participating in this process and
7 believes it must be involved in order to achieve a fair, legal, and science-based allocation,
8 and minimize the associated financial risk to PGE and its customers. PGE's advocacy
9 necessarily involves participating in all material facets of the process and locating,
10 researching and reviewing documents and data to determine the extent of any contamination
11 and/or cleanup that PGE or other PRPs are responsible for.² PGE, therefore, has incurred
12 costs associated with these necessary activities.

4. Cost Accrual

13 **Q. Please describe the fourth characteristic, how environmental costs may be accrued in a**
14 **different year than when remediation activities take place.**

15 A. As required by Generally Accepted Accounting Principles (GAAP), PGE must accrue costs
16 when they are known, measurable, and probable. For example, the estimated cost of
17 removing lead contamination at the Oak Grove facility in the area of Cripple Creek, Pint
18 Creek, and Canyon Creek support trestles is more than \$2.5 million. According to GAAP,
19 this cost is measurable, PGE's responsibility is known, and we know approximately when
20 we will incur these costs (spread across 2009 – 2011, with the bulk of costs incurred in
21 2011). Thus, PGE accrued approximately \$1.8 million in June 2009. Absent a deferral or

² In part, as discussed later in this testimony, responding to EPA's 104(e) request is part of this effort, as the information researched and generated in responding to the 104(e) request is necessary information for the allocation process.

1 other regulatory treatment, this amount will have a direct negative impact on PGE's earnings
2 in 2009.

3 **Q. If PGE is not actually spending the cash in 2009, will customers experience a rate
4 increase in 2009?**

5 A. No, there is no immediate rate impact on customers if PGE defers these accrued costs. The
6 rate impact comes only when, and if, the Commission allows PGE to amortize the deferred
7 costs. PGE would recover these costs only after filing tariffs to amortize such costs, which
8 are subject to a prudence review and an earnings test. Accordingly, these costs will not be
9 included in retail rates until after such costs are incurred, reviewed, and approved.

10 **Q. PGE filed a general rate case (docket UE 197) in late February 2008. Did PGE include
11 an estimate for environmental costs in that filing for 2009?**

12 A. Yes, PGE included its best estimates for (1) Portland Harbor, (2) Harbor Oil, and (3) Oak
13 Grove in its 2009 test year filing as explained below in more detail.

14 1. When the 2009 test year was established, our best estimate for Portland Harbor was
15 \$100,000 in consultant fees to support issues related to the Superfund Site. Subsequent to
16 our finalized forecast, PGE received a 104(e) request for information³ from the EPA in
17 January 2008 related to the Portland Harbor site. PGE could not supplement its existing
18 2009 test year estimate because the scope and expected cost of the EPA request were
19 unknown. PGE could not reasonably update its estimates for the test year for several
20 reasons, including the following.

21 a. At that time, the scope of the required response to the EPA 104(e) Request for
22 Information Letter was not known.

³ A 104 (e) request refers to a section in CERCLA. It gives the federal government the power to obtain information from regulated parties under the authority of the provisions that can be found in CERCLA. There are steep penalties for non-compliance with section 104(e) requests.

- 1 b. The number of properties involved (31) was not known since the request required
2 information on current and former properties going back to 1937 in the Study
3 Area and historical records had not been obtained nor had necessary research been
4 completed to determine the properties involved.
- 5 c. PGE did not know the quantity of documents that would be necessary to collect
6 from consultants and contractors who worked for PGE on any of the identified
7 properties, once identified.
- 8 d. The process has not yet clarified any Natural Resource Damages associated with
9 the site, or costs associated with the specific 'Downtown Reach' component (refer
10 to PGE Exhibit 101 for a map of the Willamette River Reaches).

11 In addition, there were inherent uncertainties associated with the process that were
12 described previously in Section I.B.1.

- 13 2. In 2007, PGE decided to participate with five other companies to conduct the Remedial
14 Investigation and Feasibility Study (RI/FS) with EPA at the Harbor Oil site. PGE
15 included \$173,729 in its 2009 year as its best estimate for forecasted costs associated
16 with the RI/FS.
- 17 3. At the time the 2009 test year was forecasted, PGE estimated that a very small amount of
18 environmental costs (\$3,968 in labor) would be necessary to support the painting of
19 Canyon Creek Trestle Crossing. This job included initial sampling of the soils below and
20 guidance for disposal of the removed paint and waste. In mid-2009, a more detailed and
21 formal estimate was developed for the cost of removing lead contamination at the Oak
22 Grove facility in the area of Cripple Creek, Pint Creek, and Canyon Creek support trestles
23 (see Section III.C), which subsequently caused PGE to accrue these costs for 2009.

1 These costs were not estimated at the time the 2009 general rate case was filed and
2 therefore could not reasonably be included.

3 **Q. Does PGE have any insurance for environmental events?**

4 A. We believe so. We are researching our insurance policies from several decades back and
5 will file claims, as appropriate. The deferral provides customers the opportunity to receive
6 any insurance recovery as an offset to any related environmental costs. The timing and
7 amount of insurance recovery is unknown, and without a deferral or other regulatory
8 treatment, would not necessarily benefit customers.

9 **Q. Are there other challenges PGE faces related to environmental costs?**

10 A. Yes. Based on meetings with other parties subsequent to PGE submitting its request for
11 reauthorization, there were several other issues brought to our attention. One of those issues
12 was that PGE should not be able to recover discovery or defense costs during the early
13 stages of determining the extent and financial impact at sites such as Portland Harbor. The
14 argument is that if PGE is assured recovery of such costs by the Commission granting
15 authorization for deferral of costs, then PGE has no incentive to negotiate for lower costs
16 with the other parties.

17 **Q. Does this claim have merit?**

18 A. No. In fact, the incentive to manage costs lower is not diminished in the least by deferred
19 accounting. Just because PGE is granted a deferral does not guarantee recovery of such
20 costs. As we explained previously, rate recovery of deferred costs only occurs when the
21 amortization of such costs is authorized by the Commission. Deferred accounting provides
22 no disincentive because there is no guarantee of recovery. PGE must actively manage costs,
23 to the extent possible, to support recovery of such costs at the amortization phase.

24 **Q. What is the benefit to customers of PGE participating in early negotiations?**

1 A. PGE's participation will potentially have a favorable impact on the amount of costs it, and
2 subsequently customers, will bear. If PGE did not participate in these negotiations, there is
3 a strong risk that liabilities would be higher. Additionally, PGE's failure to participate would
4 likely lead to expensive and risky litigation. It is prudent to seek less expensive alternatives
5 to resolving PGE's potential liability issues.

6 **Q. Do other parties believe PGE should participate in the process early to reduce costs?**

7 A. Yes, we believe so. However, as previously stated, other parties are opposing PGE's
8 deferral reauthorization request. Not granting deferral authorization but desiring that PGE
9 participate in the process to reduce costs sends mixed messages and does not allow PGE the
10 opportunity to earn a fair and reasonable return as it works to reduce costs to customers.

C. Deferral Accounting Standards

11 **Q. What does the Commission consider when evaluating a deferral request?**

12 A. The Commission considers two broad areas. First, the Commission considers whether the
13 deferral application has met the legal requirements. For deferred accounting applications of
14 this type, the Commission considers whether granting the deferral will (i) minimize the
15 frequency of rate changes or fluctuation of rate levels or (ii) match appropriately the costs
16 borne by and the benefits received by ratepayers. In this case, deferred accounting serves
17 both purposes. As explained earlier, environmental costs associated with these projects will
18 unpredictably vary from year to year. Deferring these costs for later recovery mitigates the
19 rate volatility that would otherwise result from tracking these annual fluctuations.
20 Moreover, deferring these costs for later recovery serves to match appropriately costs and
21 benefits. The source of the environmental costs today is PGE actions in the past to provide
22 safe, reliable energy to its customers in compliance with the practices and laws at the time.
23 Given that customers benefited from such actions in the past and benefit today from PGE's

1 actions throughout the entire investigation and cleanup process, deferring these
2 environmental costs for later inclusion in rates appropriately matches the burden of such
3 costs with those who receive the benefit.

4 Second, the Commission considers discretionary factors.

5 **Q. What does the Commission consider as part of its discretionary review?**

6 A. The Commission considers two primary factors: the nature of the event and the financial
7 impact. If the event is forecasted in rates or reasonably foreseeable as occurring in the
8 ordinary course of events, then the financial impact must be substantial to warrant deferred
9 accounting. However, if the event is neither forecasted in rates nor reasonably foreseeable,
10 then the financial impact requirement need not be substantial.

11 **Q. Were the costs of the projects in this docket reasonably foreseeable?**

12 A. No. With the exception of categories of costs included in base rates for costs that were
13 certain and/or likely to recur, the costs were neither modeled in rates nor reasonably
14 foreseeable for each of the projects at issue in this docket. The financial impact, net of
15 amounts included in rates, for the March 2008 to March 2009 deferral was approximately
16 \$0.8 million and from March 2009 through July 2009 is approximately \$2.0 million (or \$2.8
17 million cumulative). The financial impact is sufficient to warrant deferred accounting.
18 PGE's forecasts include continued increases in costs for these projects as has been
19 previously provided to Staff⁴, and are included as Confidential PGE Exhibit 102. This
20 information includes the test year, budget, actual and forecasted costs for Environmental
21 Services, Legal, and other departments involved with these environmental projects. We note
22 that for 2009, Environmental Services currently expects to spend the remainder of its
23 budget.

⁴ Provided in PGE's First Supplemental Response to OPUC Data Request No. 012.

1 **Q. Has the Commission previously granted deferred accounting for environmental costs**
2 **similar to those in PGE's request?**

3 A. Yes. In Docket UM 1078, the Commission initially granted NW Natural deferred
4 accounting for environmental costs in 2003, and has subsequently reauthorized their deferral
5 every year since. Both deferral dockets (UM 1078 and UM 1373) request deferral for later
6 recovery of environmental cleanup costs. Further, both NW Natural and PGE are
7 participants in the Portland Harbor project, which we discuss in greater detail in
8 Section III.A below.

9 **Q. Has the Commission previously granted PGE's request for deferral of environmental**
10 **costs?**

11 A. Yes. PGE filed its initial deferral request in March 2008, which was later approved by the
12 Commission at the recommendation of OPUC Staff. Neither Staff nor intervenors raised
13 any concerns regarding PGE's initial deferral request. PGE's reauthorization request does
14 not change the fundamental nature of the costs at issue and the appropriateness of deferred
15 accounting.

16 **Q. Have the parties previously indicated that environmental costs are good candidates for**
17 **deferred accounting?**

18 A. Yes. In UM 1147, which established the Commission's deferred accounting standards, Staff
19 and other parties specifically identified environmental costs as those that are difficult to
20 predict in base rates and therefore more likely warrant deferred accounting treatment. In
21 ICNU's Opening Comments in UM 1147 (see PGE Exhibit 103) they referenced a table and
22 supporting bullets developed by Staff (see PGE Exhibit 104). Two of those bullets state:

23 (3) Scenario risk is defined as a risk that is not susceptible to
24 prediction and quantification; it is often represented by abrupt changes
25 in business factors or practices (Order No. 04-108).

1 (4) Examples of scenario risk are catastrophic plant outages (Trojan),
2 environmental costs, and material unexpected changes to costs.
3 (*Emphasis added*)

4 ICNU goes on to say:

5 ICNU supports a deferred accounting framework that treats
6 applications differently depending on whether the costs at issue are
7 subject to prediction or quantification and capable of being modeled in
8 rates or are the result of some Commission-approval or mandate.

9 In CUB's Opening Comments in UM 1147, which also reference Staff's table, they state
10 (see PGE Exhibit 105):

11 A scenario event is an abrupt shift in a variable such that its financial
12 impact cannot reasonably be expected to balance out through the
13 normal course of business cycles.

14 CUB goes on to say:

15 The costs associated with scenario or paradigm events are not
16 considered when setting rates. As every business and every person is
17 subject to the risks of such events, a deferral application should also be
18 subject to a materiality test, but the threshold may be lower than that
19 established for a stochastic event.

20 **Q. Does PGE agree with Staff, ICNU, and CUB that environmental costs are hard to**
21 **predict and quantify?**

22 A. Yes. As explained above, the environmental costs in this deferral request were not
23 predictable or readily quantifiable and therefore were not able to be modeled in rates.
24 Further, the costs PGE seeks to defer are substantial enough to satisfy the lower materiality
25 threshold CUB suggests.

1 **Q. Are you aware of any examples where the Commission has dealt with the issue of the**
2 **application of an earnings test to a multi-year deferral?**

3 A. No. This situation is rather unique for both NW Natural and PGE. We have events that are
4 significant to both companies, and to our customers, and will take many years to resolve.
5 Expenditures, and insurance proceeds, are unknown from year-to-year, especially cleanup
6 costs.

II. Alternative Methodologies

1 **Q. Is deferred accounting the only means for providing PGE the opportunity to recover**
2 **environmental costs?**

3 A. No. Though deferred accounting is appropriate in this case given how base rates were set,
4 PGE believes that alternative ratemaking, such as a balancing account or an automatic
5 adjustment clause, may also be appropriate. However, should an alternative method be
6 adopted, PGE should be granted the opportunity to recover its costs between March 2009
7 and implementation of the alternative method through a deferral of such costs.

8 **Q. Can you describe the mechanics of a balancing account?**

9 A. Yes. A baseline amount would be included in the test year and the balancing account would
10 track differences between the amounts spent and amounts collected from customers between
11 general rate cases. The balance would be reset during the next general rate case. Similar to
12 a deferral, a balancing account would enable PGE to track and defer the costs, thereby
13 minimizing financial volatility. In addition, a balancing account would enable PGE to more
14 accurately and consistently include environmental costs and insurance recovery. This is
15 particularly relevant as environmental projects can sometimes take decades to resolve.

16 **Q. How would an automatic adjustment clause work and what are the benefits?**

17 A. Similar to the balancing account, an automatic adjustment clause would include a baseline
18 amount in rates; however, this amount would be subject to periodic updates and review by
19 OPUC Staff and other interested parties. Depending on the frequency of updates, this
20 method could also reduce rate volatility. In either case, this method would allow PGE to
21 more accurately and consistently include environmental costs and insurance recovery, and
22 would also provide the opportunity to implement a sharing band(s) between shareholders
23 and customers.

III. Project Overview

A. Portland Harbor

1 **Q. Please provide some background on the Portland Harbor project.**

2 A. The Portland Harbor Superfund Site currently extends from approximately mile 2 through
3 mile 12 of the Willamette River⁵ as can be seen in PGE Exhibit 101. The EPA began an
4 investigation of the site in 1997, and based upon that investigation, initially sent “Notices of
5 Potential Liability” to 69 parties (including PGE), formally identifying them as Potentially
6 Responsible Parties (PRPs) under the CERCLA. There are now hundreds of parties under
7 investigation and the EPA has assigned approximately 80 parties formal PRP status.
8 Currently, a small number of the PRPs are concluding a Remedial Investigation (RI) of the
9 site and are conducting a Feasibility Study (FS). The estimate for RI/FS costs incurred so
10 far is \$75 million.

11 EPA’s investigations indicate the presence in the Superfund Site of polychlorinated
12 biphenyls (PCBs), a chemical used in various types of electrical equipment including
13 transformers. For this reason, in January 2008 the EPA served PGE with a formal
14 information request pursuant to CERCLA Section 104(e) (a “104(e) Data Request”). This
15 104(e) Data Request included more than 80 questions regarding “any Property you currently
16 own, lease, operate on, or otherwise are affiliated or historically have owned, leased,
17 operated on, or otherwise been affiliated with” from 1937 to the present, within
18 approximately 800 feet of the Willamette River between River miles 2 through 16. PGE has
19 operated since the 19th century on a substantial number of properties in the area identified
20 by the 104(e) Data Request. A substantial amount of work has been required to comply with

⁵ For additional detail, the United States Environmental Protection Agency has posted the map in Exhibit 1 at [http://yosemite.epa.gov/R10/CLEANUP.NSF/ph/Uplands/\\$FILE/Portlandharbormaplg.jpg](http://yosemite.epa.gov/R10/CLEANUP.NSF/ph/Uplands/$FILE/Portlandharbormaplg.jpg)

1 this mandatory data request. PGE has prepared and submitted responses to EPA's requests
2 for most of its properties, and expects to complete those responses this fall.

3 Under CERCLA, PGE's potential liability as a PRP includes claims for site assessment
4 costs, cleanup costs, damages to natural resources, state and federal oversight costs, and
5 remediation and restoration costs. Given the strict liability nature of PRP status under
6 CERCLA, PGE is actively participating in developing and implementing an Allocation
7 Process. The Allocation Process is very complex and involved with the goal of ultimately
8 developing possible settlement proposals that would divide the cost of investigating and
9 remediating the site amongst all the participating PRPs pursuant to negotiated agreements.
10 Such agreements would split between the parties the costs described above and also would
11 ensure performance of remediation activities at the site. We expect this process to take
12 several years to complete. It has involved, and will continue to involve substantial costs
13 associated with internal investigations, documentation generation and evaluation, the hiring
14 of consultants and other contractors to assist in complying with EPA and Oregon
15 Department of Environmental Quality (DEQ) procedures, internal administration, and legal
16 representation in the CERCLA PRP liability allocation negotiations.

17 **Q. What is PGE's involvement in Downtown Reach?**

18 A. Downtown Reach currently includes river miles 12 through 16 of Portland Harbor and is
19 currently regulated by the Oregon DEQ. The Oregon DEQ has requested PGE's
20 participation in evaluation and possible cleanup of particular areas in the Downtown Reach.
21 Should PGE participate, the process will be similar to that of the Portland Harbor Superfund
22 Site, with a similar degree of uncertainty regarding time and cost. It is possible, however,
23 that this process could be on an accelerated timetable relative to Portland Harbor.

24 **Q. What processes are currently in progress?**

1 A. PRPs are in the process of conducting the Remedial Investigation and the Feasibility Study.
2 PGE expects a draft of the RI will be completed in early 2010. A final Remedial
3 Investigation is expected in fall 2010. PRPs are also in the midst of selecting an Allocator,
4 and interviews of candidates are being scheduled at this time.

5 **Q. What are the next steps in the process?**

6 A. PGE expects that a draft of the Feasibility Study will be submitted in fall 2010. Once EPA
7 settles on a final remedy, it will issue a Record of Decision, expected in June 2012. The
8 Record of Decision will indicate EPA's areas of concern, the types of remedial actions EPA
9 is expecting to be implemented, and at what level these areas would be considered
10 remediated.

11 In the meantime, PRPs are working through the allocation process. Once an Allocator is
12 selected, parties will share 104(e) information request responses and begin allocation
13 discussions. PGE currently expects an Allocation Report to be generated by the Allocator in
14 May 2012. Then, PRPs will resume discussions and submit a good faith offer to EPA. We
15 expect such offers will be submitted in November 2012. Consent Decree negotiations are
16 expected to begin the following spring with a Consent Decree entered by EPA in December
17 2013. The Consent Decree will indicate which PRPs are responsible for performance of the
18 remedy, and will likely specify their allocation of the remediation costs.

19 **Q. Does PGE have control over the timing of these processes?**

20 A. No. PGE is one of many PRPs and is not a member of the LWG. The EPA and LWG are
21 dictating the pace of much of these processes.

22 **Q. What is PGE's forecast for the remaining costs for this project?**

23 A. PGE's preliminary forecasts for 2010 and 2011 are included in Confidential PGE Exhibit
24 102. These amounts are based on known and measurable costs and do not include the

1 potentially significant costs associated with additional investigation, allocation, and
2 remediation.

B. Harbor Oil

3 **Q. Please provide some background on the Harbor Oil project.**

4 A. Harbor Oil, Inc. (Harbor Oil), located in north Portland, was utilized by PGE to process used
5 oil from the PGE's power plants and electrical distribution system from at least 1990 until
6 2003. Harbor Oil was also utilized by other entities for the processing of used oil and other
7 lubricants.

8 In 1974 and 1979, major oil spills occurred at the Harbor Oil site that impacted an
9 approximate two acre area. Elevated levels of contaminants, including metals, pesticides,
10 and PCBs, have been detected at the site. On September 29, 2003, Harbor Oil was included
11 on the federal National Priority List as a federal Superfund site.

12 PGE received a Special Notice Letter for Remedial Investigation/Feasibility Study
13 (RI/FS) from the EPA, dated June 27, 2005, in which PGE was named as one of 14 PRPs
14 with respect to the Harbor Oil site. The letter started a period for the PRPs to participate in
15 negotiations with the EPA to reach a settlement to conduct or finance an RI/FS of the
16 Harbor Oil site. On May 31, 2007, an Administrative Settlement Agreement and Order on
17 Consent was signed by the EPA and six other parties, including PGE, to implement an RI/FS
18 at the Harbor Oil site. The final revised work plan for the RI/FS has been submitted to the
19 EPA, and Phases I and II of the site characterization are complete.

20 **Q. What processes are currently in progress and what are the next steps?**

21 A. Risk assessments for human health and ecological risks are in progress. The remedial
22 investigation report is scheduled to be submitted to EPA in 2010. The Feasibility study is

1 scheduled to be completed in 2011. Once the RI/FS is completed, EPA will provide a
2 Record of Decision to all parties identifying the remedy and costs.

3 **Q. What is PGE's forecast for the remaining costs for this project?**

4 A. PGE's preliminary forecasts for 2010 and 2011 are included in Confidential PGE Exhibit
5 102. These amounts are based on known and measurable costs and do not include the
6 potentially significant costs associated with additional investigation, allocation, and
7 remediation.

C. Oak Grove

8 **Q. Please provide some background on the Oak Grove project.**

9 A. PGE operates the Oak Grove facility, which is located entirely on federal lands administered
10 by the U.S. Forest Service (Forest Service), pursuant to a FERC license. In August 2005,
11 PGE retained environmental consultants to perform a site investigation of potential
12 petroleum contamination discovered near the maintenance shop at the Oak Grove facility.
13 The site investigation was conducted in five phases between August 2005 and April 2008.
14 The consultants discovered petroleum contamination in the area of the maintenance shop,
15 which has been remediated. The consultants also discovered PCB contamination downhill
16 of a storm water outfall near the maintenance shop. The contamination appears to be limited
17 to surface soils and does not extend to the nearby Clackamas River.

18 In April 2008, the Forest Service notified PGE that Forest Service oversight and
19 approval of any cleanup under a mutually negotiated "Settlement Agreement and
20 Administrative Order on Consent" (AOC) would be required before cleanup could
21 commence. The Forest Service, under its delegated CERCLA authority, also issued a
22 CERCLA §104(e) Information Request – a mandatory government order broadly requiring
23 timely compliance and production of all documents and certain information related to the

1 Oak Grove PCB spill. On July 11 and August 9, 2008, PGE submitted information and
2 documents to the Forest Service to comply with the CERCLA §104(e) Information Request.

3 Additionally, on September 17, 2008, PGE sent formal notification to the U.S. Forest
4 Service of potential lead contamination of the area under the Cripple Creek, Pint Creek and
5 Canyon Creek support trestles. In 1968, 1970, and 1971 PGE sandblasted the trestles in
6 preparation for re-painting, and then re-painted the trestles. In June 2005, PGE began
7 preparation to again re-paint the trestles. However, in the process of preparing the trestles,
8 soil testing was conducted to ensure the company was not contributing to any previous
9 contamination in the area. PGE and an environmental consultant took soil samples which
10 were analyzed for eight Resource Conservation and Recover Act (RCRA) heavy metals.
11 Testing confirmed that several samples exceeded the Ecological Probable Effects
12 Concentration & Default Background Levels for Arsenic, Cadmium, Chromium, Lead, and
13 Silver.

14 **Q. What processes are currently in progress and what are the next steps?**

15 A. Regarding the PCB cleanup, PGE has completed the Engineering Evaluation/Cost Analysis
16 (EE/CA) for the site and submitted the results to the Forest Services. PGE expects to
17 cleanup the site in summer 2010.

18 Regarding lead contamination, PGE has notified the Forest Service and is waiting for its
19 determination on the site for cleanup protocol. PGE expects the Forest Service to require
20 resolution of the lead contamination issue in a comprehensive Administrative Order on
21 Consent (AOC) under CERCLA. PGE anticipates further investigation in 2010 and cleanup
22 activities to occur in 2011.

- 1 **Q. What is PGE's forecast for the remaining costs for this project?**
- 2 A. PGE's preliminary forecasts for 2010 and 2011 are included in Confidential PGE Exhibit
- 3 102.

IV. Conclusion

1 **Q. Should the Commission reauthorize PGE's deferral?**

2 A. Yes. The request meets the legal requirements and the costs PGE seeks to defer were
3 neither modeled in rates nor reasonably foreseeable for each of the projects at issue in this
4 docket. Based on Staff's supporting recommendation and the lack of any objections from
5 intervenors, the Commission approved earlier this year PGE's request to defer these
6 environmental costs. PGE's reauthorization request does not change the fundamental nature
7 of the costs being deferred and the appropriateness of deferred accounting. Deferred
8 accounting treatment is further supported by the Commission's consistent reauthorization of
9 NW Natural's UM 1078, which defers similar environmental costs. The costs PGE seeks to
10 defer as part of this reauthorization are greater than those already authorized for deferral and
11 are substantial enough to warrant the continuation of deferred accounting. Finally, granting
12 reauthorization provides customers the opportunity to receive any insurance recovery as an
13 offset to any related environmental costs.

14 **Q. If the Commission does not grant reauthorization, should it authorize PGE to recover
15 environmental costs through an alternative mechanism?**

16 A. Yes. The Commission should allow PGE recovery through either a balancing account or
17 automatic adjustment clause. Either of these mechanisms would enable PGE to include
18 environmental costs and insurance proceeds, while also granting PGE the opportunity to
19 earn a fair and reasonable return. However, should an alternative method be adopted, PGE
20 should be granted the opportunity to recover its costs between March 2009 and
21 implementation of the alternative method through deferral of such costs.

V. Qualifications

1 **Q. Ms. Behbehani-Divers, please describe your qualifications.**

2 A. I received a Bachelor of Science degree in Architectural Engineering from Roger Williams
3 University in 1982, and am enrolled in the Master of Business Administration program at
4 Marylhurst University. I have worked on Nuclear, Coal, Gas, Hydro and Wind facilities for
5 most of my career. In 1997, I joined PGE as a Civil Engineer in Power Supply Engineering
6 and am currently serving as Manager of Environmental Services, which I have done since
7 2007.

8 **Q. Mr. Hager, please describe your qualifications.**

9 A. I received a Bachelor of Science degree in Economics from Santa Clara University in 1975
10 and a Master of Arts degree in Economics from the University of California at Davis in
11 1978. In 1995, I passed the examination for the Certified Rate of Return Analyst (CRRA).
12 In 2000, I obtained the Chartered Financial Analyst (CFA) designation.

13 I have taught several introductory and intermediate classes in economics at the
14 University of California at Davis and at California State University Sacramento. In addition,
15 I taught intermediate finance classes at Portland State University. Between 1996 and 2004, I
16 served on the Board of Directors for the Society of Utility and Regulatory Financial
17 Analysts.

18 I have been employed at PGE since 1984, beginning as a business analyst. I have
19 worked in a variety of positions at PGE since 1984, including power supply. My current
20 position is Manager, Regulatory Affairs.

21 **Q. Does this conclude your testimony?**

22 A. Yes.

List of Exhibits

<u>PGE Exhibit</u>	<u>Description</u>
101	Map of Willamette River Reaches
102	Actual and Forecasted Environmental Costs
103	UM 1147 - Opening Comments of ICNU (Excerpt)
104	UM 1147 – Staff Opening Comments (Excerpt)
105	UM 1147 - CUB Opening Comments (Excerpt)

Willamette River Reaches

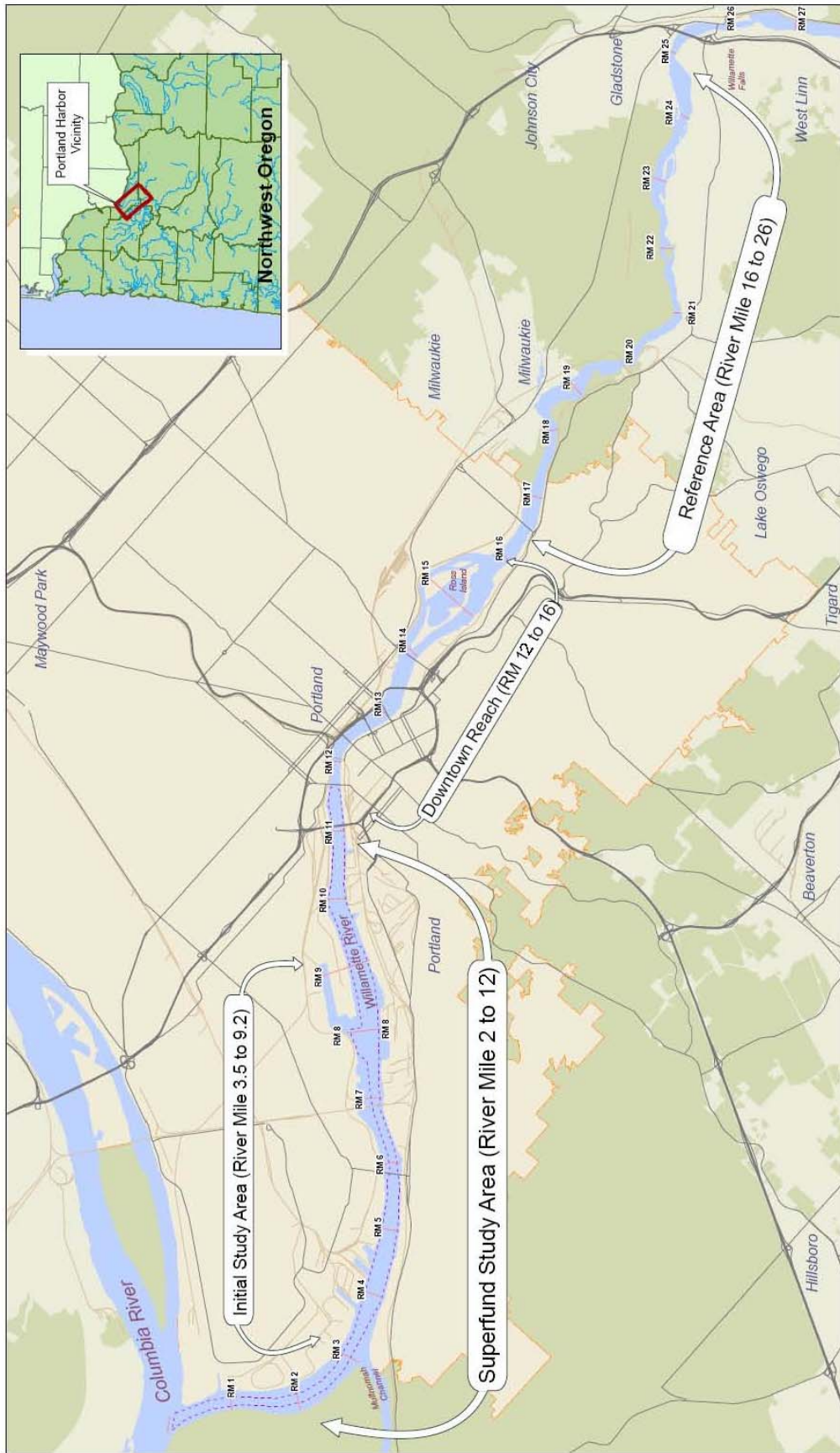


Table 1

Financial Effect	Type of Event		
	Stochastic Risk (1)(2)	Scenario Risk (3)(4)	Commission Approved (5)(6)
Substantial	Deferral Considered (7)	Deferral Considered	Deferral Considered
Material	Deferral Not Considered	Deferral Considered	Deferral Considered
Immaterial	Deferral Not Considered	Deferral Not Considered	Deferral Considered

- (1) Stochastic risk is defined as a risk that can be predicted as part of the normal course of events; it is quantifiable and can be represented by a known statistical distribution (Order No. 04-108).
- (2) Examples of stochastic risk are hydro variability, normal plant outages, employee compensation, and weather.
- (3) Scenario risk is defined as a risk that is not susceptible to prediction and quantification; it is often represented by abrupt changes in business factors or practices (Order No. 04-108).
- (4) Examples of scenario risk are catastrophic plant outages (Trojan), environmental costs, and material unexpected changes to costs.
- (5) These events are either mandated, pursuant to Commission approval, or emerging from a rate case settlement.
- (6) Examples of these events are DSM costs, a PGA, and intervenor funding.
- (7) Event should be extraordinary.

Table 1 creates three categories for deferred accounting requests: 1) requests that relate to an event that represents a stochastic risk; 2) requests that relate to an event that represents a scenario risk; and 3) requests that are mandated, submitted pursuant to Commission approval, or emerge from a rate case settlement. According to Table 1, the Commission would consider deferred accounting applications that represent stochastic or scenario risk according to the magnitude of the financial impact on the utility. This is the analysis applied by the Commission in Order No. 04-108. To these categories, Commission Staff added the

“Commission Approved” column. Deferred accounting applications that fall under this category would be considered regardless of the financial impact on the utility.

ICNU supports a deferred accounting framework that treats applications differently depending on whether the costs at issue are subject to prediction or quantification and capable of being modeled in rates or are the result of some Commission-approval or mandate. The analytical framework described by the Commission in Order No. 04-108 provides a more objective method of evaluating the risks and impacts posed by the event behind a particular deferred accounting application. Categorizing the type of risk that a particular event represents and determining whether that risk was contemplated when rates were established will help to determine whether a particular request for deferred accounting is justified.

The test described in Order No. 04-108 and depicted in Table 1 essentially provides a means to quantify when an event is extraordinary enough to justify deferred accounting. Indeed, the ultimate finding underlying the Commission’s decision in Order No. 04-108 was that the event that precipitated PGE’s application was “not extraordinary enough to justify deferred accounting.” Order No. 04-108 at 11. Given that the Commission has applied this framework in limited circumstances, it is unclear whether it will apply to other types of costs as easily as it did to the hydro replacement costs in UM 1071. As a result, if the Commission intends to adopt the framework in Table 1 as its deferred accounting policy, it should affirm that this policy is based on the premise that only those costs that are extraordinary in nature are appropriate for deferred accounting, regardless of whether they represent a stochastic or scenario risk.

1 With respect to the procedural process, Staff would like to review the comments of other
2 parties before making its recommendation on the remainder of the procedural schedule.

3 **Issue 1: Should the requirements for a deferral request differ depending on**
4 **the circumstances underlying the request, e.g., materiality requirements that**
5 **differ depending on whether the costs at issue are associated with stochastic**
6 **risk or scenario risk?**

7 Yes. Staff proposes that the Commission adopt the following table, which is very similar
8 to that set forth in Commission Order No. 04-108 in Docket UM 1071. The only difference is
9 that Staff has added an additional column titled "Commission Approved." Staff has added this
10 column to address requests for deferral when the Commission approves the concept of a deferral
11 ahead of the deferral application.

12 "Commission Approved" requests may concern cost or revenue changes representing
13 Commission-approved policies or programs, such as purchased gas cost differences, energy
14 efficiency costs, or intervenor funding. Or, request in this category could stem from a
15 Commission-approved settlement, in which the parties have agreed that particular costs or
16 revenues should be recovered or paid through a deferral and amortization. This type of
17 settlement would generally occur when the parties agree particular costs or revenues should be
18 accounted for in rates, but the amount of the costs or revenues is unknown and not subject to
19 estimation at the time of a rate case. If the Commission approves a settlement in these
20 circumstances, there is an expectation that the deferral application will be approved even if the
21 ultimate amount turns out to be immaterial.

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Financial Effect	Type of Event		
	Stochastic Risk (1)(2)	Scenario Risk (3)(4)	Commission Approved (5)(6)
Substantial	Deferral Considered (7)	Deferral Considered	Deferral Considered
Material	Deferral Not Considered	Deferral Considered	Deferral Considered
Immaterial	Deferral Not Considered	Deferral Not Considered	Deferral Considered

(1) Stochastic risk is defined as a risk that can be predicted as part of the normal course of events, it is quantifiable and can be represented by a known statistical distribution (Commission Order 04-108).

(2) Examples of stochastic risk are hydro variability, normal plant outages, employee compensation, and weather.

(3) Scenario risk is defined as a risk that is not susceptible to prediction and quantification; it is often represented by abrupt changes in business factors or practices (Commission Order 04-108).

(4) Examples of scenario risk are catastrophic plant outages (Trojan), environmental costs, and material unexpected changes to costs.

(5) These events are either mandated, pursuant to Commission approval, or emerging from a rate case settlement.

(6) Examples of these events are DSM costs, a PGA, and intervenor funding.

(7) Event should be extraordinary.

Issue 2: Under what circumstances is a particular deferral not within the normal risk range that utilities absorb between rate cases?

Whether particular costs or expenses are within a utility's normal risk range is a question that ultimately should be decided on a case-by-case basis. While the Commission could attempt to define that risk range in this docket, e.g., +/- X number of basis points return on equity from the utility's expected earnings, it is not clear that it would be appropriate to apply a one-size-fits-

1. Should the requirements for a deferral request differ depending on the circumstances underlying the request, e.g., materiality requirements that differ depending on whether the costs at issue are associated with stochastic risk or scenario risk?

As mentioned in our introduction, a deferral should not be a frequent filing. Given this, there should certainly be restrictions which apply to, and thresholds which should be met by, an application for deferral. Included as Appendix A is a schematic proposed by Staff which divides deferral events into three types: stochastic, scenario, and Commission-approved. The schematic then establishes materiality thresholds a deferral application must meet for each event type in order to be considered by the Commission.

Stochastic Event: Between the Commission, in Order 04-108, and Staff, in Appendix A, a stochastic event is defined as one that can be predicted as part of the normal course of events, is quantifiable, and can be represented by a known statistical distribution. The examples Staff provides are hydro variability, normal plant outages, employee compensation, and weather. All of these risks can be modeled using historic data. Utility rates are currently based upon normal conditions, with the expectation that each factor has a natural variability such that rates will sometimes be skewed in the company's favor and sometimes in customers' favor.

These typical variations are a risk in the normal course of business and are borne by the company and customers alike. The materiality threshold for a deferral application for a stochastic event should be high, as a reasonable amount of variation in these factors is already built into rates. In addition, given the asymmetrical nature of the deferral process (see Issue 7), a stochastic event should be well outside the range of normal variability before it should be considered for deferred accounting. Otherwise, deferred accounting would become a tool for utilities to cherry-pick increased costs for recovery, while ignoring any decreased costs.

Scenario or Paradigm Events: A scenario event is an abrupt shift in a variable such that its financial impact cannot reasonably be expected to balance out through the normal course of business cycles. In its order on UM 1071, the Commission cites the “‘perfect storm’ of 2000-2001” as a scenario event. UM 1071/Order 04-108/8. A paradigm event is a fundamental change in the course of business, and like a scenario event, its costs cannot reasonably be expected to balance out over time. In its presentation

for its August 27, 2004 IRP Public Input Meeting, PacifiCorp cites the establishment of an RTO such as Grid West as an example of a paradigm event.

The costs associated with scenario or paradigm events are not considered when setting rates. As every business and every person is subject to the risks of such events, a deferral application should also be subject to a materiality test, but the threshold may be lower than that established for a stochastic event. Rates, as they are currently set, already take a certain amount of variability into consideration, so some of the costs of a scenario or paradigm risk should be absorbed before a deferral application is considered.

Commission-Approved Events: Changes in a utility's expenses may come from a Commission order, an approved settlement, or a rate case. Regardless of their origin, these expenses have come directly through Oregon's Commission. While Commission-Approved events may resemble scenario or paradigm events, they have been sanctioned by the Commission, and, therefore, need not meet a materiality threshold.

Following is a table, plagiarized from Staff, which demonstrates the types of events and their associated materiality thresholds.

Financial Impact	Stochastic Event	Scenario Event	Commission-Approved Event
Substantial	Deferral Considered	Deferral Considered	Deferral Considered
Material	Deferral Not Considered	Deferral Considered	Deferral Considered
Immaterial	Deferral Not Considered	Deferral Not Considered	Deferral Considered

2. Under what circumstances is a particular deferral not within the normal risk range that utilities absorb between rate cases?

In Oregon, we use forward-looking test years to establish rates. Cost and revenue estimates are based upon forecasts, from which actual numbers will invariably differ. The regulatory compact places this risk on both the utility and on customers, as random variation goes in both directions. Deviation of actual numbers from those forecast cannot, by itself, be enough to qualify for deferred accounting. Such deviation falls squarely under the umbrella of the normal risk and reward balance of forward-looking ratemaking.

In its discussion in Order 04-108, the Commission considered whether the costs in question could reasonably be expected to balance out over the normal course of business. In addition, the Commission considered the magnitude of the costs in relation to the