

PBOT

PORTLAND BUREAU OF TRANSPORTATION

1120 SW Fifth Avenue, Suite 800 Portland, OR 97204 503.823.5185

Fax 503.823.7576 TTY 503.823.6868 www.portlandoregon.gov/transportation

Steve Novick Commissioner Leah Treat Director

August 3, 2015

Public Utility Commission of Oregon

Attn: Filing Center

201 High Street SE

PO Box 1088

Salem, Oregon 97308-1088

RE: Fourth Supplemental Filing of Advice No. 15-09, Rule C Customer Attachment to Facilities

Thank you for the opportunity to provide comments from the City of Portland regarding the most recent filing by Portland General Electric ("PGE") regarding relocation of utility facilities within the publicly-owned right-of-way.

State law assigns regulatory responsibility for control of local highways, streets, roads and alleys within incorporated cities to cities as the local road authority. Within the City of Portland, the Bureau of Transportation has been given responsibility for planning, building, managing and maintaining an effective and safe transportation system that provides people and businesses access and mobility to keep Portland moving. The Bureau of Transportation is responsible for the finance, operation, maintenance and improvement of City's transportation system, which includes approximately 4,800 miles of paved streets. The Bureau of Transportation maintains the \$8.4 billion investments in Portland's infrastructure facilities from streets and structures to traffic signals and street lights, while balancing competing uses, complexity, age, and size of the transportation system.

Portland's City Charter provides that streets are typically acquired and held out for use by the general public for the purposes of travel, transportation or distribution. City Charter Section 1-104. The public right-of-way is operated for a variety of transient uses including motorists, pedestrians and abutting property owners, while also occupied by large, permanent fixtures of private and public utilities. The right-of-way is formally managed by the City so as to accommodate the multitude of demands that are placed on this limited space by these users.

Portland's downtown core consists of a grid system of right-of-ways acquired by the City since its incorporation in 1851, prior to development of the automobile or the demands of modern utility infrastructure. The typical block in Portland's downtown area is 200 feet by 200 feet. Right-of-way widths are typically sixty feet to eighty feet wide. Within a sixty-foot right-of-way, the paved roadway between the curbs is often thirty-six feet wide. In an eighty-foot wide right-of-way, the paved area between the curbs is typically fifty feet. The remaining twenty four to thirty feet of right-of-way is typically dedicated for pedestrian usage as sidewalks. Portland's downtown blocks are smaller, and the right-of-way is comparatively narrower, than other typical metropolitan cities of comparable size and



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age. Because of the restricted size of Portland's public right-of-ways, and the multiple demands for occupancy by large, permanent utility fixtures and by transitory users such as surface traffic, the amount of space available for utilities can be very limited. Efficiently allocating this space is one of the major challenges faced in properly managing the City's right-of-way. This is especially true for underground facilities.

The City asks that the Public Utility Commission of Oregon ("PUC") consider the following comments on the proposed PGE tariff.

- Section 7 Relocation, Removal, or Rearrangement of Facilities
 - Public Works Project Section 7.B
 - The City of Portland generally agrees with the previously filed comments submitted in this matter on July 30, 2015 by Senior Assistant Attorney General David B. Hatton of the State of Oregon Department of Justice. The City joins in the concerns noted in the Department of Justice's comments. The City would also note that the issue of relocation costs was addressed in prior litigation between PGE and the City in the case of *NW Natural v. City of Portland*, 300 Or 291, 711 P2d 119 (1985).
 - In particular, in the first paragraph, the introductory sentence structure combines public laws - ordinances, state law and franchise agreements - with private agreements into a single clause. The first three identified categories include publicly reviewed and adopted forms of law or contract. The sentence then pivots with the phrase "or other" as modifying "private agreement". However, "other" may also be read as reflecting the previously stated list. For clarity, if this concept is to be approved, the sentence should be modified to read: "The Company will bear the cost for relocation, rearrangement or removal of Facilities within the public right-of-way under the following circumstances, unless an ordinance, state law, franchise agreement or a form of private agreement provides differently:"
 - Public Works Project, Section 7.B.2)
 - This section references the procedures identified in ORS 758.025. The statute specifically identifies that a public body may not restrict utilities from seeking cost recovery from private parties or utility customers. It is not necessary to cross-reference the statutory requirement for public bodies to coordinate a project's scope and schedule with utilities is already set forth in ORS 758.025. The effect of including this language in the proposed tariff vision is to amend the statute by implication to the utility to seek cost recovery from the public body if all of the elements of the tariff are not met. This goes further than the terms of the statute as written by the Legislature.

- Public Works Project, Section 7.B.4)
 - In regard to the issue of subsequent relocations within a two year window, the City again joins with the previously filed comments submitted in this matter on July 30, 2015 by Senior Assistant Attorney General David B. Hatton of the State of Oregon Department of Justice.

- Exception to General Rule in Section 7.A., Section 7.D.(1)
 - While this is noted in the caption to this section, the City of Portland requests confirmation that the terms and conditions set forth in this section are not otherwise applicable to the provisions of Section 7.B. Public Work Project.

- Temporary Relocations, Section 7.F
 - In regard to the issue of temporary relocations, the City again joins with the previously filed comments submitted in this matter on July 30, 2015 by Senior Assistant Attorney General David B. Hatton of the State of Oregon Department of Justice.

The City of Portland thanks the Commission for the opportunity to submit comments on the proposed Supplemental Filing of Advice No. 15-09, Rule C Customer A.

Sincerely,

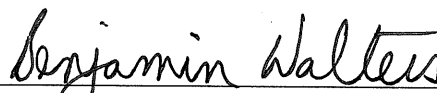
A handwritten signature in black ink, appearing to read 'Christine Leon', written in a cursive style.

Christine Leon, PE
Group Manager - Development Permitting and Transit

CERTIFICATE OF SERVICE

I hereby certify that on the 3rd Day of August, 2015, I served a copy of the foregoing by causing a copy thereof to be sent by electronic mail to the parties listed below:

dockets@oregoncub.org
efiling@nwnatural.com
oregondockets@pacificorp.com
greg@richardsonadams.com
stephanie.andrus@state.or.us
gbass@noblesolutions.com
kboehm@bkllawfirm.com
wendy@nwenergy.orq
khiggins@energystrat.com
bob@oregoncub.org
judy.johnson@state.or.us
jkyler@bkllawfirm.com
brmullins@mwanalytics.com
tcp@dvclaw.com
nona.soltero@fredmeyer.com
sommer@oregoncub.org
mark.thompson@nwnatural.com
doug.tingey@pgn.com
pge.opuc.filings@pgn.com
bvc@dvclaw.com
sarah.wallace@pacificorp.com
alex.bejarano@portlandoregon.gov
marvin.hoffman@state.or.us
marc.hellman@state.or.us
heather.c.howe@odot.state.or.us
joseph.schaefer@jordanramis.com
kthomas@orcities.org
andria.jacob@portlandoregon.gov



Ben Walters, OSB #853546
Chief Deputy City Attorney
Portland City Attorney's Office
ben.walters@portlandoregon.gov

CERTIFICATE OF SERVICE