

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: October 18, 2022**

REGULAR _____ **CONSENT** X **EFFECTIVE DATE** _____ N/A

DATE: October 10, 2022

TO: Public Utility Commission

FROM: Michael Dougherty and Melissa Nottingham

THROUGH: Bryan Conway **SIGNED**

SUBJECT: PORTLAND GENERAL ELECTRIC:
Docket No. UM 1631
PGE's Application of a Partial Waiver of Division 21 Rulemaking.

STAFF RECOMMENDATION:

Staff recommends that the Commission approve Portland General Electric's (PGE or Company) request for partial waiver through December 31, 2022, or upon written notice of intent to comply to the Commission's Consumer Services Section, whichever occurs first, of the amendments effective September 30, 2022, to the following administrative rules:

- OAR 860-021-0126(3)
- OAR 860-021-0330(1)(2)
- OAR 860-021-0420

Staff recommends that the Commission approve Portland General Electric's (PGE or Company) request for partial waiver through June 30, 2023, or upon written notice of intent to comply to the Commission's Consumer Services Section, whichever occurs first, of the amendments effective September 20, 2022, to the following administrative rules:

- OAR 860-021-0405(3)(5)

DISCUSSION:

Issue:

Whether the Commission should approve PGE's request for a partial waiver of Division 21 rules.

Applicable Laws:

The Commission recently amended multiple rules in OAR Chapter 860, Division 21. The Commission's decision to adopt these changes was memorialized in Order No. 22-353 in Docket No. AR 653, with the revised rules effective on September 30, 2022.

Per OAR 860-021-0005, the Commission may waive any of the rules in Division 21 for good cause upon written request or its own motion.

Analysis

Background

On March 8, 2020, Governor Brown declared a statewide state of emergency due to the public health threat posed by the novel infectious coronavirus, COVID-19.¹ Several extensions of that order were issued.² On March 17, 2022, Governor Brown issued Executive Order (EO) 22-03,³ which rescinded EO 20-03, EO 21-36,⁴ and EO 21-29.⁵

On September 24, 2020, the Commission authorized Staff and the affected investor-owned energy utilities and stakeholders to execute a stipulation that was developed during the Commission's Investigation into the Effects of the COVID-19 Pandemic on Utility Customers.

¹ EO 20-03 (March 8, 2020), https://www.oregon.gov/gov/eo/eo_20-03.pdf.

² EO 20-24 (May 1, 2020); EO 20-30 (June 30, 2020); EO 20-38 (September 1, 2020); EO 20-67 (December 17, 2020), EO 21-05 (February 25, 2021), EO 21-10 (April 29, 2021), EO 21-15 (June 25, 2021), and EO 21-36 (December 21, 2022).

³ EO 22-03, https://www.oregon.gov/gov/eo/eo_22-03.pdf.

⁴ Extension of EO 20-03 that was issued December 21, 2022, https://www.oregon.gov/gov/eo/eo_21-36.pdf.

⁵ COVID-19 Vaccination Requirement for State Executive Branch, <https://www.oregon.gov/gov/eo/eo-21-29.pdf>.

During the timeframe between September 24, 2020, and October 23, 2020, Parties refined the Energy Term Sheet and Stipulated Agreement on terms and conditions to assist customers and utilities during the current COVID-19 pandemic and the aftermath of the pandemic.

At its public meeting on November 3, 2020, the Commission approved the UM 2114 Stipulated Agreement. See Order No. 20-401, <https://apps.puc.state.or.us/orders/2020ords/20-401.pdf>.

At the Commission's December 16, 2021, UM 2114 Special Public Meeting, Commission Staff requested to open a rulemaking docket to begin an informal phase of reviewing OARs Chapter 860, Division 21 to strengthen customer protections concerning disconnections. The Commission issued Order No. 21-483 adopting Staff's recommendation and opening this docket, AR 653.

On June 10, 2022, following an informal collaborative process between Staff, community advocates, and the investor-owned utilities, the Commission issued Order No. 22-214, approving Staff's recommendation to open the AR 653 rulemaking docket. AR 653 began the formal rulemaking process to consider permanent changes to Division 21 rules concerning protections to residential customers and low-income customers.

The Commission held two rulemaking hearings on July 21, 2022, and September 1, 2022, and requested several rounds of comments, concluding on September 7, 2022. Commission Order No. 22-353 was issued on September 29, 2022, adopting revisions to the existing Division 21 rules effective upon filing with Secretary of State (September 30, 2022).

Analysis

PGE requests that the Commission issue an order authorizing the temporary waiver of the following rules of Chapter 860, Division 21 adopted in Docket No. AR 653 and by Commission Order No. 22-353:

1. OAR 860-021-0126(3), Late-Payment Charge, which requires that the Company not impose late-payment charges on the accounts of low-income Residential Customers, as defined in OAR 860-021-0180;
2. OAR 860-021-0330(1)(2), Reconnection Fee for Utility Service, which requires that the Company not impose initial reconnection fees on the accounts of low-income residential customers, as defined in OAR 860-021-0180;

3. OAR 860-021-0405(3)(5), Notice of Pending Disconnection of Residential Electric or Gas Utility Service; directing the Company to provide written notice at least 20 days.
4. OAR 860-021-0420, Field Visit Charge, which requires that the Company waive the first field visit charge within a 12-month window to low-income residential customers.

PGE has previously discussed these four rule waivers with the Commission's Consumer Services Section.

According to PGE, due to the nature of some of the rule revisions and the timing in which the revised regulations will go into effect, PGE faces logistical challenges that impede its ability to comply with some revisions on their effective date. These rules are:

- OAR 860-021-0126(3) – new exemptions for low-income residential customers from late payment fees,
- OAR 860-021-0330(1)(2) – initial reconnection fees, and
- OAR 860-021-0420 – initial field visit charges.

PGE states that a workaround to avoid the Customer Care & Billing (CCB) system upgrade issue has been devised for the above fee/charge rule revisions. That workaround requires the use of a temporary manual process and the configuration of a new automation process that is not dependent on the CCB system. PGE anticipates being able to implement the eligible fee/charge waivers in November; however, out of an abundance of caution, the Company is seeking a temporary waiver of those three rules for the remainder of 2022.

PGE states that it will expedite work on implementing the above Division 21 rule changes (OAR 860-021-0126(3), OAR 860-021-0330(1)(2), OAR 860-021-0420), and will take steps to mitigate harm to customers.⁶ These steps include PGE agreeing to not charge late fees, reconnect fees, and field fees to **all residential customers** until eligible low-income customers can be appropriately excluded.⁷

⁶ PGE's APPLICATION OF PORTLAND GENERAL ELECTRIC COMPANY FOR WAIVER OF OARs 860-021-0126(3), 860-021-0330(1)(2), 860-021-0405(3)(5), AND 860-021-0420, page 5.

⁷ Response to Staff informal information request, dated October 6, 2023.

Concerning OAR 860-021-0405(3)(5), PGE states that it cannot develop a feasible billing system workaround without significant effort and risk. As a result, PGE is requesting a temporary waiver until July 1, 2023. PGE states that:

The 20-day billing notice requirement is dependent on PGE's billing system upgrade because structural adjustments to the underlying bill-system logic are needed. Due to the complexity involved with interconnected systems relying on the billing system information, changing to a 20-day billing notice during the critical juncture of the CCB system upgrade is currently unfeasible and comes at a high degree of risk that inaccurate information would be communicated to customers. While the CCB system upgrades are expected to be completed by the end of April 2023, additional time will then be needed to ensure the necessary adjustments are functional and working as intended.⁸

During both the formal and informal rulemaking process, PGE highlighted the issue of delay and cost of implementing this rule based on the CCB upgrade that started in August 2021 and is anticipated to end in April 2023.⁹ Although Staff had hoped for a quicker implementation of this rule, Staff was fully aware of the need to upgrade PGE's CCB. In a response to Staff UM 2114 Information Request No. 47, PGE stated:

PGE is currently preparing for a system upgrade and is unable to make changes to the current system until the end of Q1 2023. The earliest PGE would be able to start this work is Q2 of 2023 with a target completion of the end of Q2 2023.¹⁰

Conclusion

OAR 860-021-0005 states that the Commission may grant a waiver of any of the Division 21 rules for good cause shown. Staff believes that PGE has demonstrated good cause for temporary waivers of OAR 860-021-0126(3), OAR 860-021-0330(1)(2), and OAR 860-021-0420 until December 31, 2022, as these rule changes require a system workaround to implement.

⁸ PGE's APPLICATION OF PORTLAND GENERAL ELECTRIC COMPANY FOR WAIVER OF OARs 860-021-0126(3), 860-021-0330(1)(2), 860-021-0405(3)(5), AND 860-021-0420, page 3.

⁹ During the informal phase of the Division 21 rulemaking, PGE indicated in response to OPUC Information Request 047 that "the earliest PGE would be able to start this work is Q2 of 2023 with a target completion of the end of Q2 2023."

¹⁰ Response to Staff Information request No, 47, dated April 28, 2022.

Staff also believes that PGE demonstrated good cause for a temporary waiver of OAR 860-021-0405(3)(5), until July 1, 2023, in order to avoid costs and risks of interfering with a major project like the CCB system upgrade, which is currently in progress.

As previously mentioned, PGE states that it will expedite work on implementing the above Division 21 rule changes and will take steps to mitigate harm to customers.¹¹ These steps include PGE agreeing to not charge late fees, reconnect fees, and field fees to **all residential customers** until eligible low-income customers can be appropriately excluded.¹²

Staff recommends that the Commission approve PGE's petition for temporary waiver of the amended portions of OAR Division 021, but allow for earlier application of the amended rules upon written notice to the Commission.

PROPOSED COMMISSION MOTION:

1. Approve Portland General Electric's (PGE or Company) request for partial waiver through December 31, 2022, or upon written notice of intent to comply to the Commission's Consumer Services Section, whichever occurs first, of the amendments effective September 30, 2022, to the following administrative rules:
 - OAR 860-021-0126(3)
 - OAR 860-021-0330(1)(2)
 - OAR 860-021-0420

2. Approve Portland General Electric's (PGE or Company) request for partial waiver through June 30, 2023, or upon written notice of intent to comply to the Commission's Consumer Services Section, whichever occurs first, of the amendments effective September 20, 2022, to the following administrative rules:
 - OAR 860-021-0405(3)(5)

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¹¹ PGE's APPLICATION OF PORTLAND GENERAL ELECTRIC COMPANY FOR WAIVER OF OARs 860-021-0126(3), 860-021-0330(1)(2), 860-021-0405(3)(5), AND 860-021-0420, page 5.

¹² Response to an informal Staff request on October 6, 2022.