

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: May 17, 2022**

REGULAR CONSENT EFFECTIVE DATE _____ N/A _____

DATE: April 29, 2022

TO: Public Utility Commission

FROM: Michelle Scala

THROUGH: Bryan Conway and Scott Gibbens **SIGNED**

SUBJECT: PORTLAND GENERAL ELECTRIC:
(Docket No. UM 1631)
Petition for a Partial Waiver of OAR 860-021-0405(5), Related to Email
Notifications for Pending Disconnection of Residential Customers.

STAFF RECOMMENDATION:

Approve Portland General Electric's (PGE or Company) request for a partial waiver of OAR 860-021-0405(5) to allow PGE to send 15-day notices of disconnection to customers by email for those that have notified the company that email is their preferred method of communication.

DISCUSSION:

Issue

Whether the Commission should approve PGE's request for a partial waiver of OAR 860-021-0405(5), to allow PGE to continue to send 15-day notices of disconnection to customers by email for those that have notified the company that email is their preferred method of communication

Applicable Law

OAR 860-021-0405(5) requires that the energy utility must serve the 15-day notice of disconnection in person or send it by first-class mail to the customer's last known address. Service is complete on the date of personal delivery or on the day after the date of the US Postal Service postmark or postage metering.

Under OAR 860-021-0005, upon request or its own motion, the Commission may waive any of the Division 021 rules for good cause shown. A request for waiver must be made in writing, unless otherwise allowed by the Commission.

Analysis

Background

On April 15, 2022, the Company submitted a waiver under the general waiver request Docket No. UM 1631, requesting a partial waiver request of the Oregon Administrative Rule, which requires utilities to serve 15-day notices of pending disconnection in person or first-class mail. The intent of the request is to allow PGE to continue to send 15-day notices of disconnection to customers by email for those that have notified the Company that email is their preferred method of communication. If a disconnection notice that is sent by email is bounced back due to an undeliverable status, the customer will automatically be opted out of email notices and given paper notices.

Sending 15-day notices of disconnection to customers by email for those who have indicated email as their preferred method of communication was originally authorized by the Commission via a partial waiver that took effect April 1, 2018. The waiver sunset two years after initial approval, but was extended through 2022. PGE now seeks a waiver extension for an additional two years with a sunset date of April 1, 2024.

The waiver is only intended to apply to the 15-day disconnection notification first-class mail requirements. PGE currently sends 5-day and final notices of disconnection, when a bill is not paid, via the US Postal Service's first-class mail service, regardless of the customer's communication preference, in compliance with OAR 860-021-0405. PGE is not seeking waiver of the OAR 860-021-0405(8) requirements regarding 5-day notices of disconnection.

Conditions Necessitating the Waiver

Staff notes that PGE has filed this application with a request for an expedited review, because its existing partial waiver for OAR 860-021-0405(5) expired on April 1, 2022. In conversations Staff had with the Company, current PGE systems are not set up to serve customers who have notified the Company that email is their preferred method of communication with in-person or first-class mail 15-day notices of disconnection. As such, PGE continues its disconnection notification operations as it would were the waiver still in place.

PGE indicated it seeks to continually improve customer experience and personalize communication consistent with known customer preferences. According to the Company, where customers specify that they prefer email communications from PGE,

mail notifications may be unappreciated, less effective or timely, and potentially unexpected. In a review of the Company's most recent RE 188 report, which included customer counts as of March 2022, PGE has approximately 913,000 customers (residential and non-residential). Among these customers, PGE states that roughly 475,000 have elected to receive paperless billing.

Revisions to Division 21 Rules

On December 16, 2022, Staff opened a rulemaking to investigate and recommend revisions and updates to Division 21 rules.¹ While the docket remains open and ongoing, Staff has distributed multiple drafts of revisions incorporating feedback from utilities and stakeholders along with internal analysis. Included in draft revisions to the Division 21 rules is the addition of electronic notices as an authorized method of service notice of disconnection to customers under OAR 860-021-0405(5). As PGE noted in its filing, this language, if adopted by the Commission, will eliminate the need for future waiver requests of this nature; however until such a time, the partial waiver remains necessary should PGE continue its preferred notification practices for customers.

Staff Analysis

Although this request effectively extends a previous waiver that has been authorized by the Commission twice since 2018 and is in alignment with Staff revisions to the applicable OAR, Staff still conducted an analysis of PGE's 15-day notice of disconnection practices as a form of due diligence.

Staff met with the Company on April 21, 2022, and discussed the timing of the filing, the need for expediency, and potential differences in customer payment behaviors or disconnection rates that might be correlated with notification election (i.e. paper or electronic). Staff and the Company also discussed the overlapping goals between the waiver request and with the relevant changes being considered in the AR 653 informal rulemaking, which has proposed, in part, to allow the Company to serve electronic notices in rule under OAR 860-021-0405(5). In these discussions PGE also clarified that it had inadvertently allowed the waiver to expire and the filing was submitted later than intended as a result of an internal oversight. As described earlier in this memo, PGE stated that the Company was continuing to issue 15-day disconnection notices based on customer specified communication preferences, such that PGE could not implement the necessary changes to restart paper bills and notifications where customers had been demarcated for electronic notifications.

In 2022, PGE sent out around 250,000 15-day notices of disconnection across residential and commercial customers, with 45 percent of those customers receiving their notice via email and 55 percent through the post. Thus, based on the 2022 data

¹ See Docket No. AR 653.

absent the waiver, PGE would have to shift an estimated 105,000, or 11 percent, of its customers from email 15-day notification to first-class mail despite the customer's specified preference.

In response to a Staff inquiry at the April 21, 2022 meeting, the Company provided data showing the number of 15-day notices that turn into 5-day notices (i.e. the customer does not reconcile the past due amount) from October 2010 through April 2022.

According to the information provided, the percent of 15-day notices that turn to 5-day notices is lower for email notices when compared to postal notices by about 1 percent. Staff narrowed the data down to just include calendar year 2019 and months to date post the COVID-19 moratorium and found the delta to be about the same. The purpose of the narrowing was to try eliminate months where there might be atypical counts or discrepancies related to the disconnection moratorium and the Credit Collection & Business (CCB) implementation and delay in credit activity, respectively.

Staff also inquired with counsel and peer utilities as to whether or not a waiver of this nature is standard across all the Oregon regulated utilities. Staff found that the regulated utilities support electronic mail as a form of communication with customers who request paperless billing. The peer utilities also agree with the addition of "electronic" notifications in OAR 860-021-0405(5) as proposed in the latest draft Division 21 rules; however most peer utilities did not have a comparable partial waiver of OAR 860-021-0405(5) at this time. One exception was PacifiCorp, which was granted a waiver of the rule in 2013 per Commission Order No. 13-464. The 2013 petition for limited waiver of OAR 860-021-0405(5) submitted by PacifiCorp and subsequent Order did not include a sunset date² and remains effective unless otherwise changed by the Commission. Thus, the waiver remains in place and has allowed PacifiCorp to deliver 15-day notices of disconnection³ electronically for paperless billing customers since 2013 without the need to reapply.

Staff's analysis finds that electronic communications are an effective method of providing notice to customers who have specified a preference for paperless billing and that allowing electronic mail for 15-day notices of disconnect does not create any measurable disadvantages for customer outcomes. Further, the changes to Division 21 rules currently underway in Docket No. AR 653 will likely expand the requirements for 15-day notifications to include electronic mail as an acceptable form of delivery, which is precisely what this partial waiver sets out to achieve. Finally, PGE's past approvals of the partial waiver in 2018 and 2020, as well as PacifiCorp's existing limited waiver of OAR 860-021-0405(5), provide the Commission precedent regarding how this request has been ruled on previously. For these reasons, Staff finds good cause for approving

² PGE's current and past applications for a partial waiver of OAR 860-021-0405(5) include a sunset date two years after the approved effective date, per the Company's request.

³ The term PacifiCorp uses for the 15-day notice of disconnection is "Past Due Notice" or "PDN."

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PGE's request for a partial waiver and makes its recommendation to approve PGE's petition in Docket No. UM 1631.

Conclusion

Staff recommends the Commission approve PGE's request for a partial waiver of OAR 860-021-0405(5), and allow PGE to continue to send 15-day notices of disconnection to customers by email for paperless billing customers.

PROPOSED COMMISSION MOTION:

Approve PGE's request for a partial waiver of OAR 860-021-0405(5) to allow PGE to send 15-day notices of disconnection to customers by email for those that have notified the company that email is their preferred method of communication.