

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1728

In the Matter of

PORTLAND GENERAL ELECTRIC
COMPANY,

Application to Update Schedule 201
Qualifying Facility Information.

RULING

DISPOSITION: TELEPHONE PREHEARING CONFERENCE CANCELED;
MOTION TO STAY PROCEEDINGS GRANTED

I. PROCEDURAL HISTORY

On August 18, 2017, Portland General Electric Company (PGE) filed a motion for immediate, temporary relief related to its obligations to enter into standard contracts with qualifying facilities (QFs). Specifically, PGE seeks authority to suspend its obligation to offer or enter into standard contracts with QFs larger than 100 kilowatts from August 8, 2017, until its updated avoided cost prices (filed concurrently on August 18, 2017) become effective. Alternatively, PGE asks the Commission to make the updated prices effective August 8, 2017, or to grant other relief as the Commission deems appropriate.

On August 25, 2017, Staff filed a motion to stay action on PGE's motion for temporary relief pending Commission consideration of PGE's updated avoided cost prices. Because the Commission will likely address PGE's updated prices at the September 12, 2017 Regular Public Meeting, Staff contends that the Commission's decision on those updated prices could moot PGE's motion for temporary relief.

In response to Staff's motion to stay, PGE agrees that its motion for temporary relief would become moot if the Commission approves the updated avoided cost prices *effective* August 8, 2017. PGE contends, however, that its motion would not be moot and would need to be resolved if the Commission suspends the updated prices or approves them with an effective date that is after August 8, 2017.¹

¹ The Commission's review of avoided cost updates is generally set forth in OAR 860-029-0040(4); however, that rule is outdated and does not reflect the fact that the Commission no longer views avoided cost updates as tariff

PGE explains that it does not oppose Staff's motion to stay further processing of its motion for temporary relief *provided* that: (1) any ruling granting Staff's motion should recognize that PGE's motion for temporary relief remains pending and will become moot only if the Commission approves the updated avoided cost prices effective August 8, 2017; and (2) if PGE's motion is not mooted following the Commission's decision, then an administrative law judge should immediately hold a conference to set an expedited schedule for resolution of its motion for temporary relief. PGE also clarifies that, if a stay is granted, it intends to argue at the September 12, 2017 Regular Public Meeting that the Commission should approve the updated prices effective August 8, 2017 (or effective on such other date as the Commission deems appropriate to protect PGE's customers).

II. DISCUSSION

Following further review of this matter, I cancel the telephone prehearing conference scheduled for August 31, 2017 and I grant Staff's motion to stay action on PGE's motion for temporary relief without the conditions requested by PGE. I find that PGE's request for temporary relief will be conclusively resolved during the Commission's consideration of the company's updated avoided cost prices—likely to occur at the September 12, 2017 Regular Public Meeting.

PGE's motion seeks one of two things: (1) a suspension of its obligation to offer or enter into standard contracts with QFs larger than 100 kilowatts, effective August 8, 2017, and until its updated avoided cost prices become effective; or (2) a Commission determination that the updated prices become effective August 8, 2017.

I agree with Staff that PGE's second request regarding the effective date will be rendered moot following the Commission's review of PGE's updated avoided cost filing. As part of its consideration of avoided cost updates, the Commission determines when those updated prices should become effective. Indeed, as PGE admits, the company intends to argue during the upcoming Commission review that the updated prices should be made effective August 8, 2017.

Contrary to PGE's belief, the Commission's consideration of when to make the updated prices effective will moot PGE's second request—regardless of the date determined by the Commission. The Commission will have considered PGE's request that the updated prices be made effective August 8, 2017, and rendered a final decision that either adopts PGE's requested date or selects a different date. Even if the Commission declines to approve the avoided cost update and orders further proceedings, the Commission will clarify the effectiveness of those prices during the period of additional review. Thus, following the Commission's decision at the

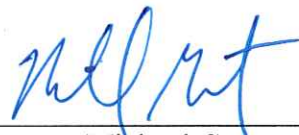
filings. See Order No. 09-427 at 3 (Oct 28, 2009) (distinguishing between rates charged by utilities for electric service and rates paid by utilities to QFs).

September 12, 2017 Regular Public Meeting, there will be no remaining controversy to resolve with regard to the effective date of PGE's updated prices.

I further conclude that the Commission's decision as to the effective date of the updated avoided cost prices will also resolve PGE's first request that it be allowed to suspend its obligation to offer or enter into standard contracts with QFs larger than 100 kilowatts effective August 8, 2017. Although stated separately, that first request is fundamentally intended to reach the same result as the second request. In both, PGE is seeking to have the updated prices apply to all QFs who have not obtained an executed contract or legally enforceable obligation by August 8, 2017—either by delaying its obligation to contract or making the updated avoided cost prices effective on that date.

Finally, to the extent that PGE's first request to stay its contracting obligation is separate and distinct from its second request, it is difficult to imagine a scenario where the Commission could separately rule on that request through pleadings prior to the September 12, 2017 Regular Public Meeting. As Staff notes, the time required for parties to file responses to PGE's motion, for PGE to file a reply, and for the Commission to render a decision would likely result in an order issued in mid-September at the earliest. In the interest of administrative efficiency, the parties should be allowed to focus their resources on reviewing PGE's avoided cost update. If PGE believes its request to suspend contracting activity should be separately address, it may raise such arguments at the September 12, 2017 Regular Public Meeting.

Dated at this 30th day of August, 2017 at Salem, Oregon.



Michael Grant
Chief Administrative Law Judge