

ORDER NO. 17 428

ENTERED OCT 24 2017

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UE 268

In the Matter of

PORTLAND GENERAL ELECTRIC  
COMPANY,

Termination of a Steam Sale Agreement  
between Portland General Electric Company  
and Upper Columbia Mill, LLC.

ORDER

**DISPOSITION: STAFF'S RECOMMENDATION ADOPTED**

This order memorializes our decision, made and effective at our October 24, 2017 Regular Public Meeting, to adopt Staff's recommendation in this matter. The Staff Report with the recommendation is attached as Appendix A.

Dated this 24 day of October, 2017, at Salem, Oregon.

*Lisa D. Hardie*

**Lisa D. Hardie**  
Chair



*Stephen M. Bloom*

**Stephen M. Bloom**  
Commissioner

*Megan W. Decker*

**Megan W. Decker**  
Commissioner

A party may request rehearing or reconsideration of this order under ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-001-0720. A copy of the request must also be served on each party to the proceedings as provided in OAR 860-001-0180(2). A party may appeal this order by filing a petition for review with the Circuit Court for Marion County in compliance with ORS 183.484.

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ITEM NO. CA5

PUBLIC UTILITY COMMISSION OF OREGON  
CONFIDENTIAL STAFF REPORT  
PUBLIC MEETING DATE: October 24, 2017

REGULAR \_\_\_\_\_ CONSENT X EFFECTIVE DATE October 24, 2017

DATE: October 18, 2017

TO: Public Utility Commission

FROM: Max St. Brown<sup>MSB</sup>

THROUGH: <sup>JCF</sup> Jason Eisdorfer and <sup>JC</sup> John Crider

SUBJECT: PORTLAND GENERAL ELECTRIC: (Docket No. UE 268) Terminated  
Steam Contract between PGE and Upper Columbia Mill, LLC.

**STAFF RECOMMENDATION:**

Staff recommends that the Public Utility Commission of Oregon (Commission) approve the Agreement to Terminate a Steam Sales Agreement between PGE and Upper Columbia Mill, LLC.

**DISCUSSION:**

Issue

Whether the Commission should approve an agreement between Portland General Electric Company (PGE or Company) and Upper Columbia Mill, LLC. (UCM) to terminate a Steam Sales Agreement executed in 2008.

Applicable Rule or Law

OAR 860-022-0035 provides:

- (1) Energy and telecommunications utilities within Oregon entering into special contracts with certain customers prescribing and providing rates, services, and practices not covered by or permitted in the general tariffs, schedules, and rules filed by such utilities are in legal effect tariffs and are subject to supervision, regulation, and control as such.
- (2) All special agreements designating service to be furnished at rates other than those shown in tariffs now on file in the Commission's office shall be

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classified as rate schedules. True and certified copies shall be filed subject to review and approval pursuant to the requirements of OARs 860-022-0005 through 860-022-0030.

Under ORS 757.205(1), a public utility must file schedules showing all rates, tolls and charges for service that have been established and are in force at the time. Tariff revisions or corrections may be made by filing revised sheets with the information required under the Commission's administrative rules, including OAR 860-022-0005 and OAR 860-022-0025. Filings that make any change in rates, tolls, charges, rules or regulations must be filed with the Commission at least 30 days before the effective date of the changes. ORS 757.220. The Commission reviews tariffs filed under ORS 757.205 and 757.210 to determine whether they are fair, just and reasonable.

### Analysis

#### *Background*

In 2008, PGE and UCM entered into an Energy Sales Agreement under which PGE agreed to sell steam to UCM and UCM agreed to purchase steam from PGE for the purpose of using steam for industrial purposes (Steam Sales Agreement). In 2013, UCM and PGE sought approval of an amendment to the Steam Sales Agreement to lower the amount of steam sold and purchased under the contract.<sup>1</sup>

On September 8, 2017, PGE filed an "Agreement to Terminate a Steam Sales Agreement between PGE and Upper Columbia Mill, LLC" (Termination Agreement) that was effective on June 20, 2017. UCM stopped taking Steam from PGE in September of 2016. The newspaper *East Oregonian* reported that UCM plans to shut down by the end of October, 2017.<sup>2</sup>

### Conclusion

PGE does not expressly ask for approval of the Termination Agreement. However, because the 2008 Steam Sales Agreement and the 2013 amendment are considered tariffs under OAR 860-022-0035, Staff believes approval of the Termination Agreement is necessary. PGE is required to serve customers in accordance with its tariffs, i.e., the previously executed Steam Sales Agreement, and such tariffs can only be changed pursuant to the processes set forth in statute.

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<sup>1</sup> See Order No. 13-194.

<sup>2</sup> Plaven, George (2017) "Upper Columbia Mill closing down in Boardman," *East Oregonian*, July 26, 2017. Accessed October 18, 2017 at: <http://www.eastoregonian.com/eo/local-news/20160726/upper-columbia-mill-closing-down-in-boardman>

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Past Commission reviews of steam sales contracts have applied the applicable standards for special contracts that are set forth in ORS 757.230 and Order No. 87-402. Based on these standards, the Staff review of a steam sale contract considers the following criteria: (1) the revenue generated from the steam sale should be sufficient to cover relevant costs; (2) other PGE customers should be held harmless; and (3) the contract should not be discriminatory.<sup>3</sup>

Staff believes these criteria are satisfied by the Termination Agreement. Because PGE's contract with UCM did not have a capacity charge, or other fixed charges, terminating the Steam Sales Agreement should not impose costs on other customers and other customers should not be harmed by the termination. Further, Staff has no reason to believe that PGE's agreement to terminate the Steam Sales Agreement is discriminatory with respect to any other similarly situated customer.

Because the Termination Agreement is subject to the processes for tariffs, PGE should have filed the Termination Agreement at least 30 days before the Termination Agreement became effective. Staff does not believe any customer has been harmed by this oversight and recommends that it have no effect on the Commission's approval of the Termination Agreement.

The Company has reviewed this memo and did not express any concerns.

**PROPOSED COMMISSION MOTION:**

Approve the Agreement to Terminate a Steam Sales Agreement between PGE and Upper Columbia Mill, LLC.

PGE UE 368

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<sup>3</sup> See Order No. 01-861, Appendix A (Staff explaining its analysis of steam sales agreement); Order Nos. 13-194, Appendix A (same).