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BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UI 219

In the Matter of)	
)	ORDER
PORTLAND GENERAL ELECTRIC)	
COMPANY)	
)	
Application Requesting Approval for Optic)	
Fiber Agreements (lease of rights to fiber)	
located between the Bank of California and)	
Pittock buildings) with PORTLAND)	
GENERAL DISTRIBUTION, LLC.,)	
an Affiliate.)	

DISPOSITION: APPLICATION APPROVED WITH CONDITIONS

On September 30, 2003, Portland General Electric Company (PGE or the Company) filed an application with the Public Utility Commission of Oregon (Commission) pursuant to ORS 757.495 and OAR 860-027-0040, requesting approval for optic fiber lease agreements, a lease of right to use 12 optic fibers located between the Bank of California and Pittock buildings, from Portland General Distribution, LLC. (PGD), an affiliated interest. PGE also requested a waiver of OAR 860-027-0040 in accordance with OAR 860-027-0043 since the value of the fiber transaction is approximately 0.0003 percent of the previous calendar year's Oregon utility operating revenues. A description of the filing and its procedural history is contained in the Staff Report, attached as Appendix A, and incorporated by reference.

Based on a review of the application and the Commission's records, the Commission finds that the application satisfies applicable statutes and administrative rules. At its Public Meeting on October 16, 2003, the Commission adopted Staff's recommendation. This written order memorializes the Commission's formal decision made at the October 16 Public Meeting.

OPINION

Jurisdiction

ORS 757.005 defines a "public utility" and the Company is a public utility subject to the Commission's jurisdiction.

Affiliation

An affiliated interest relationship exists under ORS 757.015.

Applicable Law

ORS 757.495 requires public utilities to seek approval of contracts with affiliated interests within 90 days after execution of the contract.

ORS 757.495(3) requires the Commission to approve the contract if the Commission finds that the contract is fair and reasonable and not contrary to the public interest. However, the Commission need not determine the reasonableness of all the financial aspects of the contract for ratemaking purposes. The Commission may reserve that issue for a subsequent proceeding.

CONCLUSIONS

1. The Company is a public utility subject to the jurisdiction of the Commission.
2. An affiliated interest relationship exists.
3. The agreement is fair, reasonable, and not contrary to the public interest.
4. The application should be approved, with certain conditions.

ORDER

IT IS ORDERED that the application of Portland General Electric Company to enter into an affiliated interest transaction with Portland General Distribution, LLC., is approved, subject to certain conditions, as further stated in Appendix A. It is further ordered that the waiver of OAR 860-027-0040 is also approved.

Made, entered, and effective _____.

BY THE COMMISSION:

Becky L. Beier
Commission Secretary

A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. A party may appeal this order to a court pursuant to ORS 756.580.

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: October 16, 2003**

REGULAR _____ CONSENT X EFFECTIVE DATE _____

DATE: October 2, 2003

TO: Lee Sparling through Marc Hellman and Rebecca Hatthorn

FROM: Michael Dougherty

SUBJECT: PORTLAND GENERAL ELECTRIC: (Docket No. UI 219) Request for approval for PGE's lease of right to use 12 optic fibers from Portland General Distributions, LLC, located between the Bank of California and Pittcock buildings.

STAFF RECOMMENDATION:

The Commission should approve Portland General Electric's (PGE) application for approval of an optic fiber agreement with Portland General Distribution (PGD), and also approve a waiver of OAR-860-027-0040, subject to the following conditions:

1. PGE shall provide the Commission access to all books of account, as well as documents, data, and records of PGE and PGD's affiliated interests that pertain to this transaction.
2. The Commission reserves the right to review for reasonableness all financial aspects of this transaction in any rate proceeding or alternative form of regulation.
3. PGE shall notify the Commission in advance of any substantive changes to the agreements. Any such change shall be submitted in an application for a supplemental order (or other appropriate format) in this docket.
4. PGE shall offset the purchase and maintenance payments to PGD as outlined in Condition No. 6 of Commission Order No. 03-093.

DISCUSSION:

Background

PGE filed this application on September 30, 2003, pursuant to ORS 757.495 and OAR 860-027-0040. PGE requests Commission approval of an optic fiber agreement with

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PGD. The agreement is for \$5,523 to purchase an Indefeasible Right of Use (IRU) for 12 dark optic fibers of a 216-fiber cable needed for utility business. In addition, PGE, will pay PGD \$100 annually for fiber maintenance. PGE and PGD are both wholly owned subsidiaries of Enron Corporation (Enron), and are affiliated interests under ORS 757.015.

PGE also seeks a waiver of OAR 860-027-0040 in accordance with OAR 860-027-0043 since the value of the fiber transaction is approximately 0.0003% of the previous calendar year's Oregon utility operating revenues. This is the fifth affiliate transaction between PGE and PGD concerning exchange of rights (UI 219, UI 218, UI 192, UI 191/UP 188, UP 189) and the aggregate amount of the transactions, \$302,513, is substantially less than the 0.1% required for a waiver.

As part of its Boardman and Coyote Springs power plants communication upgrade, PGE was required to connect the Bank of California Building with the interconnection at the Pittock Building, approximately 1,500 feet. This installation located in Portland, enabled the interconnection between the power plants and PGE's internal network. PGD already had fiber in place at this location and sold PGE an IRU in exchange for 5.56% contribution (\$5,523) to the total capital costs of the section.

In addition, PGE will pay PGD \$100 annually for fiber maintenance. The maintenance cost will be adjusted annually to reflect changes in the U.S. Producer Price Index¹.

Analysis

Based upon Staff's analysis of the agreement, there appears to be no unusual or restrictive terms that will harm customers. Staff reviewed the contracts costs and agrees that PGE has met the requirements of the Commission's transfer pricing policy.

Although PGE did not use a competitive procurement process, PGE was able to avoid considerable installation costs since PGE, as part of the IRU, will only pay 5.56% of the cable installation costs. Without this IRU, PGE would be required to pay 100% of construction costs for a 12-fiber cable. As a result, PGE is saving approximately \$67,000 by entering into the IRU instead of installing its own fiber cable. Additionally, PGE is only paying PGD's cost for fiber maintenance.

Because PGE will pay PGD by offsetting its accounts receivable from PGD in accordance with Commission Order No. 03-093, PGE will not be making cash payments until the receivable from PGD (approximately \$500,000) is zeroed out.

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¹ Bureau of Labor Statistics - The Producer Price Index (PPI) program measures the average change over time in the selling prices received by domestic producers for their output.

The proposed ordering condition No. 1 provides the necessary records access to PGE's relevant books and records. Based on review of the application, Staff concludes the following:

1. Customers are not harmed by this transaction because PGE has met the requirements of the Commission's transfer pricing policy for affiliate transactions and is offsetting payments to PGD in accordance with Commission Order No. 03-093;
2. The Commission will have the necessary records access to PGE's books and records; and
3. The application involves an affiliated interest transaction that is fair and reasonable and not contrary to the public interest, with the inclusion of the proposed ordering conditions.

PROPOSED COMMISSION MOTION:

PGE's application to enter into an affiliated transaction with PGD, including the four recommended conditions, and waiver of OAR 860-027-0040, be approved.

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