



Portland General Electric Company

Legal Department

121 SW Salmon Street • 1WTC1301 • Portland, Oregon 97204

(503) 464-8858 • Facsimile (503) 464-2200

barbara.halle@pgn.com

Barbara W. Halle

Associate General Counsel

February 27, 2009

Via Electronic Filing and U.S. Mail

Oregon Public Utility Commission

Attention: Filing Center

550 Capitol Street NE, #215

PO Box 2148

Salem OR 97308-2148

**Re: AR __ - APPLICATION OF PORTLAND GENERAL ELECTRIC COMPANY
FOR WAIVER OF OAR 860-038-0640**

Attention Filing Center:

Enclosed for filing in the captioned docket are an original and one copy of:

- **APPLICATION OF PORTLAND GENERAL ELECTRIC COMPANY FOR
WAIVER OF OAR 860-038-0640, COMPLIANCE FILING REQUIREMENTS
FOR 2009**

This being filed by electronic mail with the Filing Center.

An extra copy of the cover letter is enclosed. Please date stamp the extra copy and return to me in the envelope provided.

Thank you in advance for your assistance.

Sincerely,

BARBARA W. HALLE
Associate General Counsel
Barbara.halle@pgn.com

BWH:cbm

Enclosures

cc: AR 475 Service List

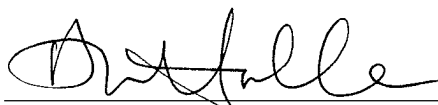
Citizen's Utility Board of Oregon

ICNU

CERTIFICATE OF SERVICE

I hereby certify that I have this day caused **APPLICATION OF PORTLAND GENERAL ELECTRIC COMPANY FOR WAIVER OF OAR 860-038-0640, COMPLIANCE FILING REQUIREMENTS FOR 2009** to be served by electronic mail to those parties whose email addresses appear on the attached service list, and by First Class US Mail, postage prepaid and properly addressed, to those parties on the attached service list who have not waived paper service from OPUC Docket No. AR 475.

Dated at Portland, Oregon, this 27th day of February, 2009.



BARBARA W. HALLE, OSB # 880540

Associate General Counsel

PORTLAND GENERAL ELECTRIC COMPANY

121 SW Salmon Street, 1WTC1301

Portland, Oregon 97204

(503) 464-8858 (telephone)

(503) 464-2200 (telecopier)

barbara.halle@pgn.com

SERVICE LIST
OPUC DOCKET # AR 475

| | |
|---|---|
| Jason W. Jones, Assistant Attorney General DEPARTMENT OF JUSTICE Regulated Utility & Business Section 1162 Court St NE Salem, OR 97301-4096 Jason.w.jones@state.or.us | Katherine A. McDowell McDOWELL & RACKNER, PC 520 SW 6 th Avenue, Ste 830 Portland, OR 97204 katherine@mcd-law.com |
| Paul M. Wrigley, Manager – Regulation PACIFIC POWER & LIGHT 825 NE Multnomah St, Ste 2000 Portland, OR 97232 Paul.wrigley@pacificorp.com | Joelle Steward PACIFICORP 825 NE Multnomah St, Ste 2000 Portland, OR 97232 joelle.steward@pacificorp.com |
| Michael Dougherty PUBLIC UTILITY COMMISSION PO Box 2148 Salem, OR 97308-2148 Michael.dougherty@state.or.us | Stephen C. Hall STOEL RIVES LLP 900 SW 5 th Ave, Ste 2600 Portland, OR 97204-1268 schall@stoel.com |

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

In the Matter of

PORTLAND GENERAL ELECTRIC
COMPANY,

Application for Waiver of Requirements of
OAR 860-038-0640, Compliance Filing.

**APPLICATION OF PORTLAND
GENERAL ELECTRIC COMPANY
FOR WAIVER OF OAR 860-038-0640,
COMPLIANCE FILING
REQUIREMENTS FOR 2009.**

PGE hereby requests the Commission waive OAR 860-038-0640, Compliance Filings, which requires that the Company engage an independent third party reviewer to prepare a report, which the Company files with the Commission by June 1. The report assesses compliance under OAR 860-0038-0500 through OAR 860-38-0640. This petition is being made pursuant to OAR 860-038-0001(4), which states:

Upon application by an entity subject to these rules and for good cause shown, the Commission may relieve it of any obligations under these rules.

PGE believes that good cause exists to waive the requirements of OAR 860-038-0640. PGE further believes that in granting such waiver, no harm will come to its customers, potential competitors or to the Company. PGE had no Oregon Affiliates, as defined in the rules, during the reporting time period and the Company's compliance under these rules has been solid as verified in previous compliance reports to the Commission. The Company further notes that this waiver would not affect the Commission's ability to request information or investigate concerns.

A. Discussion

The Company believes a waiver from the reporting rule is appropriate for reasons stated below.

The waiver if granted will provide the Company as well as the Commission with an opportunity to deploy valuable resources to other important matters for 2009. Given PGE's demonstrated compliance with the Code of Conduct rules over the years, a 2009 compliance review is not likely to reveal deficiencies with compliance, nor present material opportunities for improved compliance.

The purpose of Code of Conduct is explained in OAR 860-0038-500 which states, "The Code of Conduct is designed to protect against market abuses and anticompetitive practices by electric companies in the Oregon retail electricity markets." More specific Code of Conduct standards are then set out in OAR 860-038-0520 through -0620. OAR 860-038-0640, Compliance Filings adds the review and reporting requirements and states:

By June 1 of each odd numbered year, an electric utility company must file a verified report prepared by an independent third-party regarding the electric company's compliance with OAR 860-38-0500 through 86-038-0620 for the prior two calendar years.

Since taking effect in 2001, the Company has demonstrated that it complies with Code of Conduct rules. Additionally PGE has supported the development of open retail electricity markets. PGE's commitment to compliance under these rules is evident as noted in previous reporting to the Commission as required under OAR

As the rule explains, the company must file a report based on an independent third party evaluation of the Company's compliance to the Code of Conduct rules. The Company must, between the end of 2008 and June 1, 2009, engage the services of an outside reviewer to undertake an investigation within the Company to assess compliance. This process has in the past included steps where key personnel are interviewed, critical processes reviewed, and the

verified results filed in a prepared report to the Commission. This auditing effort requires that on a biennial basis, the Company must deploy resources from other activities to coordinate, facilitate and engage in this review. Based on previous reporting preparations, an independent reviewer report will cost about \$100,000 or more to administer. Additionally, for PGE personnel who assist the reviewers in coordinating the reviewer's requests for information, gathering requested material and arranging for interviews with Company personnel is a time consuming undertaking. Granting a waiver of 860-038-0640, will allow the Company and the Commission to more effectively apply available resources to other important matters during the time that would otherwise be spent on the review and reporting process in 2009.

History supports the Company's request for the waiver. The Company has submitted the required report in 2003, 2005 and 2007. With each report, the independent auditor/reviewer assessed the Company's compliance with the OARs and the Company submitted the findings to the Commission. Each review/audit¹ report shows that PGE has complied with the rules from the time they went into effect in 2001. Further, the Company's business practices continue to be structured to comply with the rules such that Company operations will not jeopardize adherence to the rules.

Importantly, the Company continues to proactively work to ensure that the Company is maintaining an environment of awareness of the rules including use of Code of Conduct compliance training. Regular training is carried out with key employees and selected workgroups on specific rules that pertain to their activities. In addition, the Company has subject matter experts available to assist in answering questions or concerns at any time.

¹ Order No. 06-0225 adopted changes to OAR 860-0038-0640 that replaced the "independent audit" with a biennial report prepared by an independent third party.

PGE observes that history shows no complaints material have been filed with the Commission related to the Code of Conduct rules. This lack of problem confirms that no issues or concerns have been identified; the Company's compliance performance has been solid. An important reason for requiring the report (i.e. the presence of Oregon Affiliates) does not apply in PGE's case as PGE did not have any Oregon Affiliates, as defined in the rules, during the time period that would be covered by the report. The Company further notes that this waiver would not affect the Commission's ability to request information or investigate concerns.

Therefore, we respectfully request that PGE be granted a waiver from having to conduct a third party audit and the next biannual report due on June 1, 2009.

B. Communications

Communications regarding this Application should be addressed to the following email address: pge.opuc.filings@pgn.com

Please mail hardcopies to:

Doug Kuns
Portland General Electric Company
121 SW Salmon Street, 1WTC0702
Portland, OR 97204
Telephone: 503-464-7891
E-Mail: doug.kuns@pgn.com

Barbara Halle
Portland General Electric Company
121 SW Salmon Street, 1WTC0701
Portland, OR 97204
Telephone: 503-464-8858
E-Mail: barbara.halle@pgn.com

C. Conclusion

PGE believes that good reason exists in waiving the requirements under OAR 860-038-0640. PGE further believes that based on reporting history and the Company's commitment to on-going training and awareness efforts, along with the Commission's review of PGE's

compliance reporting in 2003, 2005 and 2007, the Company's adherence to the Code of Conduct is evident.

PGE has demonstrated that it operates its business as required under the rules with no violations assessed or complaints registered regarding compliance to these rules. We believe a waiver is beneficial, and if granted, no harm will come to our customers, potential competitors or to the Company and a waiver from this requirement will save the Company the expense of reserving valuable resources to coordinate a review where performance under the rule is and has been in compliance.

For all of the reasons described above, the Company requests that Commission approve the request for waiver from the requirements of OAR 860-038-0640 as described herein.

DATED this 27th day of February, 2009.

Respectfully submitted,

/s/ Barbara W. Halle

Barbara W. Halle, OSB# 880540
Associate General Counsel
Portland General Electric Company
121 SW Salmon Street, 1WTC0702
Portland, OR 97204
Telephone: (503) 464-8858
Telecopier: (503) 464-2200
E-Mail: barbara.halle@pgn.com