

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: March 24, 2015**

REGULAR _____ CONSENT X EFFECTIVE DATE _____ N/A _____

DATE: March 17, 2015

TO: Public Utility Commission

FROM: Mitchell Moore ^{mm}

THROUGH: Jason Eisdorfer ^{JE} and Marc Hellman ^A

SUBJECT: PORTLAND GENERAL ELECTRIC: (Docket No. UM 1422(2)) Requests waiver of the compliance requirement contained in OAR 860-038-0640 by June 1, 2015.

STAFF RECOMMENDATION:

The Public Utility Commission of Oregon (Commission) should approve Portland General Electric's (PGE or Company) request for waiver of the requirement set forth in OAR 860-038-0640 for submitting its 2015 bi-annual "Code of Conduct" report.

DISCUSSION:

Background

PGE filed this application on February 25, 2015, pursuant to OAR 860-038-0001(4), which states that the Commission may waive any of the Division 038 rules for good cause shown. The Company is requesting that the Commission waive the compliance requirement contained in OAR 860-038-0640. This rule requires an electric company to file by June 1 of each odd numbered year a verified report prepared by an independent third party regarding the electric company's compliance with OAR 860-038-0500 through 860-038-0620 for the prior two calendar years.

OAR 860-038-0500 through 860-038-0620 contain the Direct Access Code of Conduct (Code of Conduct), which was designed to protect against abuses and anticompetitive practices by electric companies in the Oregon retail electric markets. It contains rules governing the sharing of customer information, the cross-subsidization between competitive operations and regulated operations, access to transmission and distribution facilities, joint marketing practices, and other issues.

The Company provides the following reasons why the Commission should approve its request for a waiver of OAR 860-038-0640:

1. History supports the waiver request. The Company submitted the required report by June 1 in the years 2003, 2005, 2007 and 2011. The reviews were conducted by an independent third party to review compliance with the Code of Conduct, and the Company timely filed a report detailing such compliance with the Commission. The third-party reviewer typically interviewed key personnel, reviewed documentation, reviewed critical processes and then prepared a report based on these assessments. Each of these reports found the Company to be in compliance with the Code of Conduct. It is further noted that no complaints have been filed with the Commission related to the Code of Conduct rules.
2. Regarding Division 038 Code of Conduct – the Company proactively works to maintain an environment of awareness of the rules pertaining to the Code of Conduct. Every two years, regular training is provided to all key employees and selected workgroups on the specific rules that are relevant to their activities. In addition, PGE has subject matter experts available to assist in answering questions or concerns at any time. The Company employs key business practices to ensure that compliance with the Code of Conduct is maintained.
3. An important reason for requiring the report (i.e. the presence of robust competitive or non-regulated operations) does not apply in PGE's case given that the extent of PGE's competitive operations is immaterial. In 2014, non-utility revenues were slightly under \$7 million, and less than 1 percent of regulated revenues. In addition, in the time period that would be covered by the report, the Company had three Oregon affiliates, none of which provided electricity services.
4. In the unreleased Staff Audit Report of PGE (Audit Number: 2013-001), dated December 31, 2012, Staff conducted an extensive operational audit over the third and fourth quarters of 2012, including the submission of numerous data requests. Among the items reviewed were affiliate transactions and cost allocations with reliance on PGE's 2011 Annual Affiliate Interest report. There were no issues noted regarding affiliate relationships or cost allocations. In addition, the report highlighted that there were no customer complaints filed with the Commission regarding direct access and competitive operations.
5. If granted, the waiver will enable the Company, as well as the Commission to deploy the resources that would otherwise be consumed by the audit, to other important matters. Given that PGE's has demonstrated compliance with the

Code of Conduct rules over the years, it is unlikely that a 2015 compliance review would turn up any deficiencies in compliance.

6. The Commission maintains the opportunity to review the Company's relationships and transactions with affiliates through various mechanisms. PGE annually files an affiliated interest report, which provides details of transactions with all affiliates. Granting a waiver of the Code of Conduct third-party review and report requirement will not impede the Commission's ability to request information or investigate potential issues.
7. The Company sought a similar waiver for the 2013 compliance year. The Commission relied upon the above-listed circumstances when it granted the waiver in Order No. 13-060, Docket No. UM 1422(1). Circumstances remain unchanged from the previous request for waiver of compliance with OAR 860-038-0640.

Analysis

Staff reviewed Commission Order No. 13-060, granting PGE a waiver of OAR 860-038-0640 for June 1, 2013. For this filing, Staff requested the Company provide information that discusses and substantiates how it is in compliance with OAR 860-038-0500 through 860-038-0620 for the prior two calendar years.

Staff reviewed and verified the Company's training concerning customer-related issues, the Code of Conduct, non-discriminatory access to transmission and distribution facilities, and marketing materials. Staff finds no issues with the training or marketing materials. Staff also notes that there have been no complaints from customers, nor from competitive Electric Service Suppliers filed with the Commission regarding the Company's compliance with the Code of Conduct rules.

Staff agrees with the Company that the absence of affiliated operations that provide electric service, combined with a relatively small amount of revenue from competitive services substantially mitigates the concern that the rules are intended to address. Specifically, the rules and the audit of the Company's compliance with the rules are intended to prevent the utility provider from leveraging its monopoly position in the retail market to gain an unfair competitive advantage. Of the \$7 million in revenue from competitive services (less than 1% of regulated revenues), \$4.6 million was received for constructing a new substation for a client. Other distribution services accounts for an additional \$1.2 million; and the Commercial and Industrial Renewables Program, which administers transactions of Renewable Energy Credits (RECs), received just under \$1 million.

The Company's annual Affiliated Interest Report, which includes the Company's Cost Allocation Manual, is submitted to the Commission on an annual basis and reviewed by Staff. In its reviews, Staff has not noted any unusual affiliated relationships or cost allocations.

Regarding compliance with OAR 860-038-0590, which requires the Company to provide non-discriminatory access to its transmission and distribution facilities: PGE's Open Access Transmission Tariff (OATT), approved by the Federal Energy Regulatory Commission (FERC), provides the terms and conditions under which the Company provides non-discriminatory access to its transmission facilities. PGE also has an Electricity Service Suppliers' (ESS) Guide, which explains the process an ESS uses to obtain access to the Company's distribution facilities. Both the OATT and the ESS Guide, if implemented and followed by the Company, ensure PGE's compliance with this rule. Given the lack of complaints from direct access customers and ESS's, Staff has no reason to think the Company is not implementing its OATT correctly or not implementing its ESS Supplier's Guide.

As a result of this analysis, Staff supports the Company's request for a waiver of the compliance requirements contained in OAR 860-038-0640 by June 1, 2015, and recommends the Commission approve this waiver.

PROPOSED COMMISSION MOTION:

Portland General Electric's (PGE or Company) request for waiver of the requirement set forth in OAR 860-038-0640 for submitting its 2015 bi-annual "Code of Conduct" report, be approved.