



**Portland General Electric Company**  
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**V. Denise Saunders**  
*Associate General Counsel*

August 28, 2017

***Via Electronic Filing***

Oregon Public Utility Commission  
Attention: Filing Center  
PO Box 1088  
Salem OR 97308-1088

Re: **UM 1728 – PORTLAND GENERAL ELECTRIC COMPANY’s Application to Update Schedule 201 Qualifying Facility Information**

Attention Filing Center:

Enclosed for filing is Portland General Electric Company’s Response to Staff’s Motion for Stay in Docket UM 1728.

Thank you in advance for your assistance.

Sincerely,

A handwritten signature in blue ink that reads "V. Denise Saunders". The signature is written in a cursive style with a large, stylized "S" at the end.

V. Denise Saunders  
Associate General Counsel

VDS:bop

Enclosure

**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.

**PORTLAND GENERAL ELECTRIC  
COMPANY'S RESPONSE TO STAFF'S  
MOTION FOR STAY**

**I. INTRODUCTION**

Portland General Electric Company (“PGE”) respectfully requests a ruling responding to Commission Staff’s August 25, 2017 motion to stay further processing of PGE’s August 18, 2017 motion for temporary relief from Schedule 201 prices. PGE does not oppose Staff’s motion for stay *provided* the key assumptions discussed below are confirmed in any ruling granting the motion for stay. If these key assumptions are not confirmed, PGE respectfully requests that the administrative law judge (“ALJ”) deny Staff’s August 25, 2017 motion for stay.

**II. BACKGROUND**

On August 8, 2017, the Public Utility Commission of Oregon (“Commission”) partially acknowledged PGE’s 2016 integrated resource plan (“IRP”). On August 18, 2017, PGE submitted a revised Schedule 201 with updated standard avoided cost prices based on the 2016 IRP.<sup>1</sup> The updated prices are substantially lower than current prices.<sup>2</sup>

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<sup>1</sup> Docket No. UM 1728, PGE’s Application to Update Schedule 201 Qualifying Facility Information – Compliance Filing (Aug. 18, 2017).

<sup>2</sup> *Id.*; Docket No. UM 1728, PGE’s Motion for Temporary Relief from Schedule 201 Prices at 2 and 7-8 (Aug. 18, 2017).

Consistent with OAR 860-029-0040(4)(a), PGE proposed that the updated prices become effective September 18, 2017.<sup>3</sup>

On August 18, 2017, PGE also moved for immediate, temporary relief from Schedule 201 prices.<sup>4</sup> PGE noted that it has an unprecedented volume of pending requests for contract from qualifying facilities (“QFs”).<sup>5</sup> PGE noted that, without immediate relief, many of these requests could obtain contracts or legally enforceable obligations at current, inaccurate prices.<sup>6</sup> And PGE noted that this could result in substantial and irreparable harm to PGE’s customers of approximately \$492 million over 15 years.<sup>7</sup>

To prevent this harm to customers, PGE asked the Commission to immediately suspend PGE’s obligation to offer or enter into Schedule 201 contracts with QFs larger than 100 kilowatts (“kW”).<sup>8</sup> PGE asked for this relief to become effective August 8, 2017, and to apply until updated Schedule 201 prices become effective.<sup>9</sup> PGE asked for this relief because the Commission previously provided similar relief to Idaho Power under similar circumstances.<sup>10</sup> In the alternative, PGE asked the Commission to declare that the updated prices filed August 18, 2017 are effective August 8, 2017.<sup>11</sup> In the alternative, PGE asked the Commission for such relief as the Commission deems appropriate to prevent PGE from paying currently effective but inaccurate prices.<sup>12</sup>

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<sup>3</sup> Docket No. UM 1728, PGE’s Application to Update Schedule 201 Qualifying Facility Information – Compliance Filing (Aug. 18, 2017).

<sup>4</sup> Docket No. UM 1728, PGE’s Motion for Temporary Relief from Schedule 201 Prices (Aug. 18, 2017).

<sup>5</sup> *Id.* at 1 and 8.

<sup>6</sup> *Id.* at 8-9.

<sup>7</sup> *Id.* at 2-3 and 10.

<sup>8</sup> *Id.* at 19.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.* at 3 and 11-12.

<sup>11</sup> *Id.* at 19.

<sup>12</sup> *Id.*

On August 25, 2017, Commission Staff filed a motion to stay the need to respond to PGE's August 18, 2017 motion.<sup>13</sup> Staff states: "the Commission should consider PGE's avoided cost filing as soon as is possible taking into account the need for Staff and stakeholder review of PGE's avoided cost prices."<sup>14</sup> Staff notes that the Commission will likely review PGE's August 18, 2017 updated prices at its September 12, 2017 public meeting "unless a special public meeting is scheduled to review PGE's filing."<sup>15</sup>

Staff argues: "If the Commission approves PGE's proposed avoided cost prices and allows them to become effective upon approval, PGE's request for temporary relief will be moot."<sup>16</sup> Staff further argues it is a waste of resources to require Staff to review PGE's avoided cost prices and simultaneously respond to PGE's request for authority to stop contracting until the avoided cost price change.<sup>17</sup> And Staff argues that a Commission ruling on PGE's motion would not likely come soon enough to warrant the burden of responding to PGE's motion.<sup>18</sup>

Under the conditions discussed below, PGE does not oppose Staff's motion.

### **III. ARGUMENT**

PGE's August 18, 2017 motion asks the Commission to suspend PGE's obligation to enter into Schedule 201 contracts with QFs larger than 100 kW effective August 8, 2017. In the alternative, PGE's motion asks the Commission to make the updated prices effective August 8, 2017. As such, PGE motion will be moot if the Commission considers PGE's updated prices at or before its September 12, 2017 regular

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<sup>13</sup> Docket No. UM 1728, Staff's Response to Request for Expedited Consideration and Motion to Stay Response to PGE's Motion for Temporary Relief (Aug. 25, 2017).

<sup>14</sup> *Id.* at 1.

<sup>15</sup> *Id.* at 2.

<sup>16</sup> *Id.* at 4.

<sup>17</sup> *Id.* at 2.

<sup>18</sup> *Id.* at 3.

public meeting and the Commission allows the updated prices to become effective *with an August 8, 2017 effective date*.

PGE disagrees with Staff's suggestion that PGE's August 18, 2017 motion will be moot if the Commission approves PGE's updated prices at a public meeting and allows the updated prices to become effective upon approval.<sup>19</sup> Under such an outcome, QF projects that establish a legally enforceable obligation between August 8, 2017 and the date of the public meeting, would be entitled to current, inaccurate prices. But if PGE's August 18, 2017 motion is granted, a QF project that establishes a legally enforceable obligation between August 8, 2017 and the date of the public meeting is *not* entitled to the current, inaccurate prices.

PGE also disagrees with Staff's suggestion that PGE failed to make its Schedule 201 compliance filing at the first opportunity.<sup>20</sup> PGE would have preferred to make its compliance filing before August 18, 2017 but could not do so because it required time to process the results of the Commission's August 8, 2017 partial acknowledgment of the 2016 IRP and to calculate updated avoided cost prices based on that acknowledgment.

In sum, if the Commission considers PGE's updated prices at a public meeting on or before September 12, 2017, and allows the prices to become effective as of August 8, 2017, then PGE's August 18, 2017 motion is moot. But if the Commission considers PGE's updated prices and either suspends the prices for further investigation, or approves

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<sup>19</sup> See Docket No. UM 1728, Staff's Response to Request for Expedited Consideration and Motion to Stay Response to PGE's Motion for Temporary Relief at 4 (Aug. 25, 2017) ("If the Commission approves PGE's avoided cost prices and allows them to become effective on approval, PGE's request for temporary relief is mooted. It is only if the Commission chooses to suspend for further investigation that it would be necessary to respond to PGE's motion.").

<sup>20</sup> *Id.* ("... PGE could have attempted to expedite any change to its avoided cost prices based on 2016 IRP inputs by making its avoided cost filing at the first opportunity ... PGE did not ....").

the prices as effective on a date later than August 8, 2017, then PGE's August 18, 2017 motion is not moot and it should be resolved.

PGE does not oppose Staff's motion to stay further processing of PGE's August 18, 2017 motion *provided* certain key assumptions are recognized in any ruling granting stay. First, if the motion for stay is granted, the ruling should recognize that PGE's August 18, 2017 motion remains pending; that it will become moot if the Commission approves the new prices effective August 8, 2017; but that PGE's motion will not be moot if the Commission suspends the updated prices for further investigation or allows the updated prices to become effective on a date that is *after* August 8, 2017. Second, if PGE's motion is not mooted by the Commission's action on the updated prices, the ALJ should immediately hold a conference to set an expedited schedule for resolution of PGE's motion. Third, in granting a stay the ALJ should recognize that any relief granted in response to PGE's August 18, 2017 motion *may* become retroactively effective August 8, 2017 (or on such other date as the Commission deems appropriate) to the same extent as if the motion had been ruled on immediately rather than stayed pursuant to Staff's August 25, 2017 procedural motion.

If the ALJ cannot confirm these assumptions, PGE asks the ALJ to deny Staff's motion for a stay. PGE has alleged that its customers will suffer substantial and irreparable harm if PGE's August 18, 2017 motion is not granted immediately. The Commission recently agreed, in the context of Docket No. UM 1854, that the harm PGE seeks to mitigate is real and substantial.<sup>21</sup> Unless the Commission or its ALJ agrees to

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<sup>21</sup> See Docket No. UM 1854, Order No. 17-310 at 7 (Aug. 18, 2017) (finding PGE demonstrated that without relief the unprecedented level of QF activity currently facing PGE threatens to cause substantial and irrevocable harm to customers and that it is therefore "appropriate to protect ratepayers from potential significant cost impacts due to long-term PPAs with prices that exceed PGE's avoided costs.")

preserve PGE's ability to obtain resolution of its motion and to have that resolution relate back to August 8, 2017, the Commission or ALJ should deny Staff's motion for stay.

#### IV. CONCLUSION

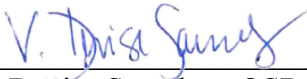
The current level of QF activity and the related need for regulatory action is placing significant demands on the resources of the Commission, its Staff, its ALJs, PGE and stakeholders. PGE appreciates Staff's hard work and its willingness to review PGE's August 18, 2017 compliance filing as soon as possible in order to address the urgent need for a price update. PGE would prefer to accommodate Staff's motion for stay and does not oppose the motion *provided* the assumptions discussed above are recognized as part of any ruling granting a stay. As a result, PGE respectfully requests the ALJ issue an immediate ruling:

1. Granting Staff's August 25, 2017 motion for temporary stay, on the following conditions:
  - a. All further action on PGE's August 18, 2017 motion is stayed pending the Commission's consideration of PGE's August 18, 2017 compliance filing;
  - b. PGE's August 18, 2017 motion will be moot if the Commission allows PGE's updated prices to become effective *on or before* August 8, 2017;
  - c. PGE's August 18, 2017 motion will not be moot if the Commission suspends PGE's August 18, 2017 compliance filing or allows PGE's updated prices to become effective on a date that is *after* August 8, 2017;
  - d. If the Commission's action on PGE's compliance filing does not moot PGE's August 18, 2017 motion, then the ALJ will hold a conference to establish a schedule to expedite resolution of PGE's August 18, 2017 motion; and

- e. The stay does not alter the Commission's ability to grant retroactive relief in response to PGE's August 18, 2017 motion (i.e., the stay is not intended to limit the Commission's ability to grant relief that is retroactively effective to August 8, 2017, or to any other date the Commission deems appropriate).
2. In the alternative to granting all of the relief requested in paragraph (1) above, PGE requests that the ALJ deny Staff's motion.

Dated this 28<sup>th</sup> day of August 2017.

Respectfully submitted,



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