



Portland General Electric
121 SW Salmon Street · Portland, Ore. 97204

October 18, 2019

Via Electronic Filing

Public Utility Commission of Oregon
Attn: Filing Center
201 High Street, Ste. 100
P.O. Box 1088
Salem, OR 97308-1088

Re: Docket UM 1953; PGE Schedule 55 Compliance Filing; Revised

Chair Decker, Commissioners Tawney and Bloom:

Portland General Electric Company (PGE) is submitting these revised comments to correct slight factual errors in the detailed account.

PGE submits these responsive comments to Staff's public meeting memo, dated October 9 but received October 16, which recommends that the Commission find PGE's implementation of its Phase 1 green tariff offering to be noncompliant with the Commission Order No. 19-075 (which approved PGE's phase 1 green tariff).

PGE strongly disagrees that our implementation of the tariff is contrary to the Order, or the spirit of the Order. PGE's green tariff program administration is compliant with the Order. There are no specific terms of the Order that preclude PGE from assisting Customer Supply Option (CSO) eligible customers in finding a developer, project, or power purchase agreement (PPA) that suits their needs. There was no harm resulting from PGE's management of the CSO option and assisting these customers. PGE solicited the competitive market to identify renewable generation resources for the green tariff. In addition, there is no cost shifting to nonparticipating customers. Customers are enthusiastic and ready to participate in the program. A final resource commitment is imminent. Should the Commission find PGE's implementation of the tariff noncompliant, it would jeopardize committed subscription agreements, PPA terms, and the launch of the green tariff for PGE customers. PGE respectfully asks the Commission to approve its compliance filing, which Staff found otherwise compliant.¹ In its review of this matter, the Commission may want to clarify its Order to provide clearer guidance for the administration of the program. In addition, PGE would be amenable to make periodic reports back to the Commission as the Commission sees fit.

¹ Staff memo in footnote 7 notes that it has not identified an issue with PGE's Schedule 55 compliance. On page 10, Staff notes that it has reviewed rate calculations and determined that PGE's methodology for calculating capacity and energy credits, complies with Order No 19. 075.

Launching a green tariff program has been a long time in the making: 1) starting with the passage, in 2014, of House Bill 4126; 2) followed by an 18 month regulatory process resulting in the docket being closed with no program being offered²; and 3) the most recent 2018 process resulting in approval of the current PGE program. In its 2018 request to reopen the green tariff docket, PGE submitted joint testimony with several of our city mayors discussing their respective climate action plans and the desire for a green tariff product from PGE.³ In PGE's view, the spirit of the Commission's Phase 1 Order 19-075 is to facilitate meeting customers' interest in renewable energy (while ensuring that no cost shifting to nonparticipants occurs).

Given that this is a new program and given the earlier unsuccessful attempt to launch a green tariff product, at the time of the regulatory process for Phase 1, there were many unknowns. PGE knew there was customer interest, but we did not know:

- How customers would actually subscribe to a specific product;
- The degree of price sensitivity;
- Customer sensitivity to PPA term lengths⁴;
- Customer risk appetites; or,
- Large customer desire to independently procure their own resource.

Based on all these factors, PGE understood Order 19-075 in the light of facilitating customers' desire to green their energy use. In that vein, when we talked with eligible CSO customers and they asked for assistance in securing a resource to participate, PGE did not consider the option of telling them no—that we were precluded from helping them. We assisted.

PGE's objective in launching its green tariff was, and remains, to address customer interest and to help customers meet their own corporate or municipal climate and sustainability goals. We have learned a lot in this first phase and if we would have anticipated Staff's interpretation of Order 19-075, we would have advocated for greater clarity in the Order and program based on those learnings. Given the newness of the program, the Commission could not have anticipated all issues associated with administering the Customer Supply and PGE Supply options and specifically addressed them.

² In April 2016, PGE notified the Commission by letter that after meeting with customers following the Commission Order in UM 1690, customers showed little interest in a specific green tariff product design that met the Commission's order conditions. While there was customer interest expressed during the proceeding, when draft terms were shopped to customers, they were not interested in subscribing.

<https://edocs.puc.state.or.us/efdocs/HAH/um1690hah93856.pdf>

³ Having this declared interest by several city mayors in the public record provided the competitive marketplace with an opportunity to cultivate these customers for their products, in furtherance of competition. In addition, more recently, PGE's municipal customers had open meetings to discuss and deliberate green tariff subscription, again providing opportunities for the competitive market to compete for their business.

⁴ PGE's green tariff design offered 5, 10, 15 and 20 year terms, aimed at being flexible in meeting customer interests. PGE was surprised by all 17 enrolled customers subscribing to 15 year terms.

Detailed Account of PGE's Program Administration

The following provides a more detailed account of how PGE managed this proven-to-be very popular customer program, consistent with the Order.

- PGE agrees with Staff that the Commission's Order to implement a Phase 1 of its green tariff included a 300 MW program comprised of two separate options - a 100 MW of PGE procured resource aimed at aggregating smaller nonresidential customer loads, and a 200 MW CSO option program for larger, nonresidential customers. As Staff notes, PGE did not initially propose the 200 MW CSO option and agreed to modify its program design, at the request of parties, to include the option provided that: 1) PGE retained final approval of PPA terms and conditions; and 2) execution of the PPA be at PGE's sole discretion.⁵ This concept allowed a customer to identify and bring a PPA from a developer to PGE if it conformed to PGE's requirements, which the Commission directed be posted and available to allow nondiscriminatory access to the program. PGE viewed this nondiscriminatory access requirement as statutorily based and not necessarily tracing to parties' testimony, as Staff asserts. At the time, PGE anticipated that large nonresidential customers would avail themselves of this option and would not necessarily seek PGE's assistance in procuring a green tariff resource.
- PGE also agrees with Staff's timeline. In March 2019, through a Request for Quotations (RFQ), PGE sought quotations from competitive developers for quotes for the 100 MW PGE aggregated program and the 200 MW CSO. The RFQ was not filed with the Commission, nor was it required to be filed. While others may question PGE's solicitation from developers for both programs, PGE sought quotes for the CSO because, in meetings with at least one very large CSO eligible customer, PGE was directly asked about indicative pricing, (i.e. PGE was asked what might be a competitive price for a CSO product and what resource options might look like). In securing quotes, PGE was gathering market information to be helpful to customers. In our solicitation to resource developers about the option, PGE made clear that it was focused on procuring 100 MW for the program but also soliciting separate quotes for the 200 MW option. From the beginning of the program, PGE saw its role as informing customers and facilitating customer interests.
- On March 22, 2019, PGE posted PPA terms for the CSO option, to its web and notified stakeholders of the posting through an update to PGE Schedule 55, filed with the Commission's filing center. As of this date, PGE considered the CSO option open and available. PGE has, and continues to, welcome customers bringing their own PPAs for consideration as a green tariff resource tailored to that customer's particular needs. To date, PGE has not received any customer interest in this option; thus, we did not establish a queue for it.

⁵ UM 1953/ PGE 400/ Sims-Tinker at 2. <https://edocs.puc.state.or.us/efdocs/HTB/um1953htb154519.pdf>

- During the month of May, PGE started notifying and working with customers who had expressed interest or had approached PGE regarding their municipal climate action targets or corporate sustainability goals. Customers were also notified of open enrollment for the 100 MW PGE supply option and that there would be a queue for customer declaration of interest. As customers came forward with interest, if they were eligible for the CSO option, PGE let them know that they were eligible.
- May 31, 2019 when the queue opened, 16 customers provided nonbinding letters of interest. Upon review of the queue, PGE noted that the 100 MW capacity was filled with the 12th customer. Two of the customers that submitted letters were not able to meet their full requests under the 100 MW program because of their place in the queue but were CSO eligible. There was one customer in the queue that met the CSO eligibility and, given their interest in the 100 MW program, customer interest exceeded 100 MW. PGE reached out to that customer (Customer 1) to remind them that they were eligible for the CSO option and if they pursued that option, they would free up space in the queue for other smaller customers desiring to participate. While the CSO is envisioned to allow a customer to bring a PPA to PGE, our Schedule 55 notes that the PPA sourced by the customer is in collaboration with PGE, and also that the PPA would be collaboratively sourced. In filing the tariff, PGE sought to allow flexibility on what its role would be to assist customers and what “collaboration” and “collaborative sourcing” meant. In fact, the Commission’s Order contemplates PGE and the customer working together on the CSO option, assuming that customers and PGE would be exploring PPAs together.⁶
- June 6, 2019 – following up on demand for the program, PGE met with the resource developer of the 100 MW project, asking about the developer’s ability to increase the size of the renewable generation project to meet CSO-eligible customer interest. The developer confirmed that this was possible, at the same terms and conditions of the 100 MW project. Following that discussion with the developer, Customers 2 and 3 expressed an interest on June 10 and 13 respectively, and PGE advised them that the PGE supply queue had been filled but that they, too, were eligible for the CSO. They expressed interest in PGE’s assistance with the CSO option and finding a resource. Customer 1 confirmed interest in the CSO option August 18. These three customers ended up signing subscription agreements, declaring intent to enroll in the CSO option, with the same terms and conditions as those in the 100 MW program to be served by the same resource. Because Customer 1 became a CSO customer, space was freed up under the 100 MW cap and three smaller customers enrolled. Final enrollment numbers will be subject to the amounts in an executed PPA, but the approximate current status of the program is:

⁶ Order 19-075 at 6. “However, we note that as customers and PGE explore potential PPAs we will entertain individual applications for arrangements with a floating credit, which do not guarantee net savings to a participant but may result in net participant savings.”

	Customers	Phase 1 - MW Subscribed	Phase 1 - MW Remaining
Subscriber	14	62 MW	38 MW
Customer Supply Option	3	98 MW	102 MW
Total	17	160 MW	140 MW

- PGE shared enrollment information during a settlement conference with stakeholders on August 29, and made its compliance filing September 13, 2019. The basis for the compliance filing is PGE’s Schedule 55, Green Energy Affinity Rider, that states PGE will submit for regulatory review to OPUC Staff, the rate and credit calculations agreed upon by the company and customer. PGE added supplemental information to the compliance filing in light of what it heard at the settlement conference, for complete transparency, and is seeking expedited review before the PPA is signed.

Discussion of Staff’s Issues

The Commission’s Order identifies the green tariff program as a 300 MW of new-nameplate-resources program, through PPAs, and anticipates that eligible customers and PGE would be working together on the CSO option. The Order does not prescribe methods of PGE’s engagement with customers for their participation. PGE’s implementation of the program was intended to be compliant with the Commission Order.

Staff’s concerns are two-fold:

- The customers in the CSO option did not procure their own resource or negotiate their own contract, and bring it to PGE; and
- That PGE inappropriately, in Staff’s words, “re-shuffled” the queue, when: 1) it discussed the CSO option with a CSO eligible customer in the PGE supply queue, and 2) the customer then opted for the CSO option, freeing up room under the PGE supply cap, and 3) that “reshuffling” also occurred with regard to Customers 2 and 3.

PGE’s implementation of the tariff is consistent with the spirit of the Order - meeting customer interests and following the intention of the program design. Staff’s interpretation will result in a violation of the spirit of the Order and lead to a much more limited option for customers. PGE’s actions are consistent with the delineations between the two options.⁷ The 3 customers that are participating under the CSO

⁷ To PGE, the following are examples of actions that would be deemed inconsistent or noncompliant administration of the program: allowing smaller customers (less than 10 MWa) to participate in the CSO; if PGE had not made large customers aware of the “bring your own” component of the CSO when discussing the program with them; refusing to allow a CSO customer to bring a PPA to PGE with a contract that fully conforms to PGE’s PPA requirements; and if we had exceeded the 300MW cap for the program.

were eligible to do so and each expressed their interest to participate via email. Functionally they were taken out of the PGE supply queue and placed into the CSO option.

While the issue of whether the Order requires the CSO supply contract to be bilaterally executed between the customer and the developer, or a three-party contract, was not identified by Staff in its Public Meeting Memo, Staff did raise the issue with PGE during discussions and in a data request. PGE is also aware that other parties may hold the same view. PGE views that a CSO supply contract would be signed by the company and the developer. Under Oregon law, a customer may have its electricity supply from the utility or an ESS. Other than these purchase options, the law does not authorize a customer to sign an electricity supply contract with a developer. For CSO participating customers, PGE's cost of service customers are paying an energy and capacity credit. Thus, it is logical and consistent with the law, that PGE would execute the CSO supply contract, binding the company to the program terms. Moreover, the Commission's Order seems to contemplate the contract execution between PGE and the developer. On page 8 of Order 19-075, the Commission approves PGE's proposal to review and amend all contract terms for the CSO provided PGE has published its minimum PPA requirements to allow nondiscriminatory access to the CSO option.

We note that Staff is not claiming any damage from PGE's administration; in fact, more customers are participating because of PGE's engagement with customers and our ability to work with competitive suppliers. We also note that Staff does not identify any specific terms of the order that PGE violated. PGE chose to work with customers expressing an interest, rather than refusing to help them navigate the program and neglect their interest, informing them the product was unavailable. That is not good customer service and it does not help fulfill the state's vision for a carbon free future. Competitive suppliers had ample opportunities to seek the business of publicly known municipal and other customers with sustainability goals, and vice versa, under the program. PGE did not hamper the market; in fact, PGE's green tariff put named customer interest in the public record available for any marketer or developer to approach. PGE did not turn away any customers that brought a preferred resource or PPA to PGE for the CSO option. In fact, we encouraged that option early, posting the PPA requirements more than two months before establishing the queue for the PGE supplied option. PGE did not use its participation in resource procurement to restrict the competitive market for renewable resources. In fact, we relied on the competitive market through a fair and transparent process in order to gain information in support of our customers' needs. We agree that this option provides customers with the wherewithal, the freedom to source their own projects (subject to PGE's final approval of terms and conditions), and there is plenty of room under the cap for customers to do so. Finally, PGE's actions did not cause any customers not to exercise rights they have under the program with regard to self-supply or seeking a floating credit.⁸

⁸ In response to Staff, PGE noted that if a floating credit were requested by a CSO customer, PGE would support that customer in petitioning the PUC, in much the same way as PGE met customer interests with new renewable energy.

Conclusion and Consideration for Clarifying Order

For these reasons, PGE respectfully requests the Commission affirm PGE's compliance with its Order. For clarity to current and future customers, resource developers, the Company, and other interested stakeholders PGE asks the Commission to make the finding that PGE's actions were not inconsistent with the Order.

Given Staff's recommendation that the Company notify interested parties and Staff as soon as an issue of Order compliance occurs and given the different interpretations of the Order and thus what compliance means, PGE suggests that the Commission may want to clarify or interpret its own Order. This may also be important to provide guidance as there remains room under both option caps. PGE suggests the following clarifications:

1. The CSO PPA contract is between PGE and the PPA provider; the customer may be a third-party beneficiary to the contract.
2. PGE may manage the program and work with CSO eligible customers, if requested, to identify resources, resource developers and procure a PPA to meet customer interest.
3. In administering its green tariff program, PGE is expected to manage customer demand levels, customer characteristics, and customer interests to optimize customer participation in its green tariff program options.

We look forward to discussing this further at the October 22 public meeting. Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Karla Wenzel', written in a cursive style.

Karla Wenzel
Manager, Regulatory Policy and Strategy