

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: June 28, 2022**

REGULAR **CONSENT** **EFFECTIVE DATE** June 30, 2022

DATE: June 21, 2022

TO: Public Utility Commission

FROM: Brian Fjeldheim

THROUGH: Bryan Conway, Marc Hellman, and Matt Muldoon **SIGNED**

SUBJECT: PORTLAND GENERAL ELECTRIC:
(Docket No. UI 405)
Request to Amend an Affiliated Lease Agreement Between Portland
General Electric and 121 SW Salmon Street Corporation.

STAFF RECOMMENDATION:

Staff recommends that Portland General Electric's (PGE or Company) request to amend the affiliated lease agreement with 121 SW Salmon Street Corporation (121 Salmon or Affiliate), effective June 30, 2022, be approved subject to the following condition:

1. PGE's Attachment 2 – Draft of Lease Amendment 1, Section 3 – Security and Access: Include clarifying language that access restrictions and security measures necessary to secure the Company's remaining critical infrastructure applies to all floors of Building 3, World Trade Center (3WTC) that PGE will continue to occupy in full or in part.¹

DISCUSSION:

Issue

Whether the Commission should approve PGE's request to amend the Affiliated Interest Transaction with 121 Salmon, related to the lease amendment for office space at 3WTC.

¹ Per PGE's current application in Docket No. UI 405, page 2, paragraphs 1 and 2.

Applicable Rule or Law

"Affiliated interest," as defined in ORS 757.015(3), includes every corporation five percent or more of whose voting securities are owned by any corporation or person owning at least five percent of the voting securities of a public utility or by any person or corporation in any chain of successive ownership of at least five percent of voting securities of the utility.

ORS 757.495 requires a public utility to seek approval of contracts with affiliated interests within 90 days after execution of the contract. The required process for submitting an agreement for review by the Commission is set forth in ORS 757.495 (1-4 and 6) and OAR 860-027-0040.

ORS 757.495(3) provides that the Commission may approve an affiliated interest agreement if the agreement is fair and reasonable and not contrary to the public interest. However, the Commission need not determine the reasonableness of all financial aspects of the agreement for ratemaking purposes, and may reserve that issue for subsequent proceedings.²

Under OAR 860-027-0048(4) (e), for cost allocation purposes:

[w]hen services or supplies (except for generation) are sold to an energy utility by an affiliate, sales shall be recorded in the energy utility's accounts at the approved rate if an applicable rate is on file with the Commission or with FERC. If services or supplies (except for generation) are not sold pursuant to an approved rate, sales shall be recorded in the energy utility's accounts at the affiliate's cost or the market rate, whichever is lower.

The Commission need not determine the reasonableness of all financial aspects of the contract for ratemaking purposes, but, rather, may reserve that issue for subsequent proceedings. See Commission Order No. 11-071.

Analysis

Background

This docket concerns an affiliated interest transaction between PGE and 121 SW Salmon, an existing PGE affiliate, and seeks to change PGE's rentable space in 3WTC, one of three buildings in the World Trade Center (WTC) building complex in downtown Portland with approximately 507,000 rentable square feet. PGE currently occupies

² See Order No. 11-071 in Docket No. UI 306, available here: <https://apps.puc.state.or.us/orders/2011ords/11-071.pdf>.

approximately 344,000 square feet (sq ft) of the WTC (67.8 percent) pursuant to a previously executed and in force lease agreement with 121 SW Salmon. In both the current and proposed lease amendment, PGE pays a base lease of \$207,212.42/month multiplied by the Company's percentage of occupancy at WTC. In addition to the base rent expense, PGE must also pay an allocated share of total operating rents for WTC, based on Company's occupancy percentage of rentable square footage. In the proposed amendment, PGE's leased office space at WTC will decline approximately 15,700 square feet to 328,000 sq ft, a 4.7 percent reduction in total leased office space, resulting in a commensurate decline in base rent and allocated sharing of operating expenses.

The original lease agreement between PGE and 121 Salmon contains an addendum pertaining to 3WTC physical and information technology security requirements, and specifies that so long as PGE maintains critical infrastructure on 3WTC premises, PGE

...shall have the exclusive access to and control of that portion of the Premises known as the Three World Trade Center (3WTC) building; Tenant shall establish all minimum building security standards and protocols for 3WTC. During any such period of time when the Premises Area does not include the entirety of 3WTC, and no portion of Tenant's Critical Infrastructure (e.g., Balancing Authority, Integrated Operations, Power Supply, and the like) is contained within 3WTC, Tenant's access shall be non-exclusive and the minimum building security standards and protocols for 3WTC shall be identical to that of 1WTC above.³

Per PGE's filing, the Company will continue to have residual critical infrastructure located at 3WTC. Accordingly, the proposed amended lease agreement makes no change in building or floor specific security requirements for the Company's occupied floor space necessary to protect and maintain PGE's onsite critical infrastructure. Notably, the proposed amendment for which PGE seeks approval is explicit that there will be no change to the security for the floor (4th) on which PGE will maintain critical infrastructure. However, the proposed amendment to the lease is less explicit as to whether there will be any change to security on the other floor(s) in 3WTC that PGE will continue to occupy. The proposed amendment includes the following language:

Prior to July 1, 2022, Tenant shall have removed all of Tenant's Critical Infrastructure from 3WTC except for certain data center and communication functions located on the Fourth (4th) floor of 3WTC. PGE does not currently intend to remove the communications hub from the Premises Area. Except as specified herein, effective July 1, 2022, Tenant's access to portions of

³ PGE filing, Docket No. UI 405, Addendum to Office Lease Agreement, Recital 2, paragraph three.

3WTC shall be non-exclusive and the minimum building security standards and protocols for 3WTC shall be identical to that of 1WTC. Landlord and Tenant shall work together to maintain appropriate access restrictions and security measures to satisfy Tenant's concerns regarding 3WTC. *For the avoidance of doubt, access restrictions and security measures for the Fourth (4th) floor of 3WTC shall be maintained as long as the data center and/or communications hub are located at 3WTC.*⁴

On June 15, 2022, Staff visited PGE's WTC offices in Portland, Oregon to review sensitive third-party security analysis documents pertaining to PGE's physical security posture for critical infrastructure located at 3WTC. Staff noted no concerns with the third-party security assessment document, and that existing building and floor specific security measures for PGE's 3WTC leased office space will continue in force until such time as PGE's critical infrastructure is moved from 3WTC or is decommissioned and no longer operative. During the June 15 site visit, Staff saw firsthand PGE's front desk security protocol, to include check-in with front desk security, visitor badge logging by PGE staff, internal physical security measures, elevator access protocols, and sensitive document handling. Staff only notes that these protocols were in place at the time of the site visit and does not constitute an assessment of PGE's security posture.

Conclusion

Based on Staff's review of PGE's application, in conjunction with reviewing sensitive third-party security analysis documents onsite at PGE's offices, Staff concludes the proposed Amendment of Office Lease Agreement, with one condition recommended by Staff, will not adversely impact PGE's customers and will not affect customer rates.

Staff finds the application satisfies the public interest, no harm standard and inclusion of the amended lease agreement appears to be fair and reasonable, with one condition:

1. PGE's Attachment 2 – Draft of Lease Amendment 1, Section 3 – Security and Access: Include clarifying language that access restrictions and security measures necessary to secure the Company's remaining critical infrastructure applies to all floors of Building 3, World Trade Center that PGE will continue to occupy in full or in part.

⁴ PGE April 20, 2022 Application for Affiliated Interest Transactions, Att. 2, Draft of Lease Amendment I (emphasis added).

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PROPOSED COMMISSION MOTION:

The Commission approve PGE's Application for an Affiliated Interest Agreement with 121 Salmon, subject to Staff's recommended condition, effective June 30, 2022.