

ORDER NO.

ITEM NO. RA1

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: August 9, 2022**

REGULAR X CONSENT EFFECTIVE DATE August 10, 2022

DATE: August 1, 2022

TO: Public Utility Commission

FROM: Scott Gibbens and Melissa Nottingham

THROUGH: Bryan Conway and Caroline Moore **SIGNED**

SUBJECT: PACIFIC POWER:
(Docket No. ADV 1391/Advice No. 22-005)
Amends Rule 8, Metering to include an Exemption for Master Metering.

STAFF RECOMMENDATION:

Approve Pacific Power's (PacifiCorp or Company) Advice No. 22-005 which amends Rule 8 with the following stipulations, effective with service on and after August 10, 2022.

1. The Company must use good-faith efforts to discuss and propose any viable solution for allowing qualifying tenants residing in any unit that is subject to this exemption access to the proposed Schedule 7 energy prices on the same forty-five-day timeline directed by the Commission in regards to ADV 1412.
2. The Company must provide the Commission with a report of the number of buildings utilizing this exemption by August 2024.

DISCUSSION:

Issue

Whether the Oregon Public Utility Commission (Commission) should approve an exemption process to the master meter prohibition currently in place in the Company's Rule 8 Tariff.

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Applicable Rule or Law

PacifiCorp makes this filing pursuant to ORS 757.205, OAR 860-022-0025, and OAR 860-022-0030.

- ORS 757.205 requires public utilities file to all rates, rules, and charges with the Commission.
- ORS 757.220 requires utilities to file changes to any rates, tolls, charges, rules, or regulations with at least 30 days before the effective date of the changes. The Commission may approve tariff changes on less than 30 days' notice for good cause shown.
- OAR 860-022-0025 requires that revised tariff filings include statements showing the change in rates, the number of customers affected and resulting change in annual revenue, and the reasons for the tariff revision.
- OAR 860-022-0030 requires that tariff filings which result in increased rate include statements showing the number of customers affected, the annual revenue under existing schedules, the annual revenue under proposed schedules, the average monthly bills under existing and proposed schedules, and the reasons supporting the proposed tariff.

Analysis

Background

PacifiCorp's Rule 8, Metering, currently requires an individually metered service for each unit in an apartment building. This requirement for each resident to be individually metered is a requirement in PacifiCorp's tariffs in all states the Company operates in. The origin of this requirement was the passage of Public Utility Regulatory Policies Act (PURPA) in 1978. PURPA 16 USC §2625(b) identifies policy goals that master metering be prohibited or restricted to promote energy conservation. In Oregon, ORS 455.420 implements this metering recommendation by requiring "[an] individual electrical meter for each dwelling unit" except "where a building inspector...determines that...installation of a single electrical meter for all dwelling units in such building would facilitate an overall reduction in electrical consumption by such units."

On April 27, 2022, PacifiCorp filed Advice No. 22-005 requesting amendments to Rule 8, Metering, which would allow for master metering of apartments in certain situations. In its application, the Company states that it has had several requests from affordable housing developers in the last twelve months to approve master meter installations for new apartment buildings.

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After discussions with the Company regarding concerns and potential outreach to stakeholders, the Company filed replacement sheets on May 12, 2022, to extend the effective date to August 10, 2022.

On July 20, 2022, Staff held a stakeholder workshop to elicit input from other parties regarding the issues related to the Company's proposal. Along with Staff and the Company, representatives from the Community Energy Project and Sazan Group were in attendance.

Company Proposal

As previously mentioned, the Company proposed to allow for the installation of master metering in apartment buildings if the project meets certain criteria. These criteria are:

1. The required exemption to individual metering as required by the Oregon State building code has been obtained by the builder.
2. The units are not sub-metered.
3. HVAC is provided through central systems to each individual residential unit, or if an all-electric building, HVAC may be provided by individual or shared heat pumps supplying both heating and cooling to each individual residential unit.
4. Electric load within each unit that is controlled by the tenant, excluding any individual load from item three, will be less than 250 kWh per month.

Support for Proposal

The Company has provided several reasons in its application, through discovery, and during the stakeholder workshop as to why Commission approval of the tariff change is in the public interest.

The first is that the Oregon State building codes allow for such an exemption to the individual metering requirement. This creates a mismatch between the Company's tariff and the state building codes.

Second, PacifiCorp states in its initial application that much of the interest from Oregon developers is in the affordable housing market. The reduced costs of installing and wiring separate meters for each unit would presumably make low-income housing projects more viable economically, thus promoting development that may not otherwise take place. Further, PacifiCorp believes that there is value to the tenants who may be on fixed incomes or have tight budgets in the assurance that comes from having a fixed cost for energy built into their monthly rent.

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Third, the Company states that central heating or high efficiency heat pumps can promote energy efficiency, lower costs overall, and limit the potential for cross-subsidization amongst residents in a building.

The Company also notes that the 250 kWh limit ensures the developer builds energy efficient units with more eco-conscious appliances, which limits the risk the proposal will result in excessive energy consumption when the direct price signal is lost.

The Company currently has a similar exemption process in place in Utah. In discussions with the Company, they further explained that in addition to affordable housing, the Company sees interest from developers to build residential units for employee housing close to a large facility, and for student housing close to colleges and universities. During the workshop, the representative from Sazan group further stated that this exemption would be desirable for net-zero or other apartment complexes designed with behind the meter solar installations sized to offset the power consumption of the residence. Without being able to aggregate the load of the entire building, the net-zero mandate can only be achieved through individual and more costly smaller solar installations.

Risks and Concerns of Proposal

A primary risk from Staff's perspective is the loss of the direct relationship between the utility and the consumer. If an energy-burdened consumer is no longer a customer of the utility, the Company and the Commission lose some of their ability to directly apply solutions and programs to mitigate the difficulty of paying for energy. Low-Income Rate Assistance Program (LIRAP), Low-Income Home Energy Assistance Program (LIHEAP), differential rates borne by House Bill (HB) 2475, arrearage management programs, etc. would seemingly be unavailable options for tenants of master metered buildings. Disconnection notices, Energy Trust of Oregon (ETO) offerings, and other important information also become more difficult and convoluted to deliver.

In the net-metering space, this exemption could open up an avenue that was not previously considered when net-metering and other distributed generation programs were designed. Staff has not identified any particular concerns with this, but notes that unintended consequences may exist.

The PURPA standard regarding master metering is designed to promote energy usage awareness, providing a direct price signal for the energy used and incentivizing conservation. The Company's proposal would break the connection between energy usage and cost. The Company's proposal attempts to mitigate abuse of this disconnection but does not guarantee it. Energy usage is only based on estimates of

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each unit's energy consumption; there is no mechanism for identifying compliance with the 250 kWh limit.

Staff Analysis

Staff generally understands and supports the arguments in support of the Company's proposal. Staff believes that there are potential circumstances that could warrant a master metered service and that finding an appropriate solution to allow these situations is likely in the public interest. However, Staff does have concerns, noted above, that the Commission should consider prior to approval of the Company's tariff change. Staff issued 17 information requests to the Company in order to attempt to better quantify and understand the potential risks associated with the Company's proposal.

Staff reviewed Portland General Electric's (PGE) tariff to identify if it had an exemption process in place for master metered service. Staff found that an exemption does exist with no stipulations. The tariff states:

Individual dwelling units in newly constructed multi-family residential buildings will be individually metered and billed as Residential Customers... In the case where service is supplied through one meter to two or more new dwelling units, or to three or more existing dwelling units, service will be classified as nonresidential service.¹

Staff then reached out to PGE for clarification on its tariff and found that the Company generally works with any developer who has obtained a waiver of the state building codes to put a master metered residential building on nonresidential service.

Staff then worked to understand the potential scale of the issue. In response to Staff Information Request (IR) No. 14, the Company noted that it has approved one exemption request each year from 2018-2022, with the exception of 2021, for a total of four in the last five years in Utah. The Company further states that it has received four requests in the last 12 months in Oregon, with one requestor electing to individually meter and the other three awaiting the result of this filing. In a separate information response, the Company noted that at least two of the requests in Oregon were for affordable housing projects.

In an interview airing on July 6, 2022, Oregon State Economist Josh Lehner provided some brief thoughts on the housing and rental market in Oregon. In the interview, Lehner summarily noted the impact that high interest rates are having on the affordability of home ownership. He notes that there is not an over-supply of housing in the state, so although demand has likely decreased, prices are not declining. This has

¹ PGE Tariff No. E-18, Rule B, Sheet B-6 and B-7.

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a cascading effect on rents in the state, as certain individuals are priced out of purchasing a home, and they must choose instead to rent. This increases demand for rentals. In response to a caller who was having difficulty finding a place to rent, Lehner goes on to explain the impact of the rental market on prospective renters.

Caller: This is Barbara Bullard from Milwaukee. I am a senior looking for another house to move into and unfortunately the rents are all the same amount of money as I get with my Social Security and my small retirement fund. The answer is a tent on the side of the road. I don't know what the answer is, but I don't think I'm going to be able to ever pay as much as I actually get in Social Security. Thank you.

Interviewer: *Both Barbara there and Tyler, earlier, talked about renting, which we haven't focused on so far, but I want to just turn briefly to that at least. What does everything we've been talking about in the housing market mean for renters?*

Lehner: It means the rental market will just get even tighter, if people are being priced out of the ownership market. It means you have to have a roof over your head as she was alluding to, or not. Unfortunately too many of us, too many of our neighbors, don't. That, at a base level, owning a home is a choice. It's a choice for the privilege to have the ability to have the down payment and finance and things like that. But the same people could take their strong finances and choose to rent as well. So that's going to just increase the demand in the rental market and vacancy rates and the amount of time on the market for apartments or just all rental units in the Portland area is back to where it was pre-COVID. So it's just gonna continue to see increases in rents statewide and in the Portland market in the years ahead.²

Staff notes that while the scale of risks is potentially growing, the potential usefulness and necessity of the exemption is also growing. This underscores the importance of the risks and merits of the proposal.

Consumer/Utility Relationship

In relation to the loss of the direct connection between the Utility and the consumer, Staff finds that some of the concerns have or could be mitigated. For disconnection notices, OAR 860-021-0326 states that:

² Think Out Loud, OPB Broadcast July 6, 2022, <https://www.opb.org/article/2022/07/05/think-out-loud-oregon-housing-rental-markets-oregon-very-tight/>.

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When an energy utility's records show that a residence is a master-metered multi-family dwelling (including rooming houses), the utility must notify the Commission's Consumer Services Division at least five business days before disconnecting the service. The utility will use reasonable efforts to notify occupants of the impending disconnection and alternatives available to them.

While ETO offerings and federally mandated programs like LIRAP and LIHEAP may be difficult to address in this context, Staff does believe there is potential for additional mitigation for some of the state level programs currently being implemented by the Commission. Staff asked the Company about the potential for tenants in affordable housing to access targeted programs for energy burdened customers. The Company states in response to IR No. 15:

The Company has concerns with any program that it would be asked to administer that is not directly linked and calculated from the actual metered usage of the benefiting customer each month. In a master-metered apartment complex, the tenant pays rent and the utilities are included. As the tenant is not a customer of the Company, the Company would not have an account to track when the tenant is in a unit, which unit they are in, if or when the tenant moves, etc. The usage of the tenant is not known, and an average per unit would be distorted by any non-unit electrical usage under the master meter, such as laundry room, common areas, hall and exterior lighting, and potentially electric vehicle charging. The Company is, however, open to further dialog and collaboration with stakeholders on this issue to see if there may be an acceptable solution for incorporating a bill discount with master-metering.

Staff notes that the Commission recently elected to suspend and investigate PacifiCorp's Advice No. 22-008, which sought to establish Schedule 7, Low-Income Discount at the July 26, 2022, public meeting, and thus conversations around how to potentially allow for residents of master-metered buildings could occur with all the relevant parties in a timely manner.

Thus, Staff recommends that the Commission's approval require the Company to analyze, discuss, and propose any viable solution to this issue on the same forty-five-day timeline directed by the Commission in regards to ADV 1412. Staff also encourages the Company to continue to work to identify ways in which tenants of these dwellings could have access to additional programs like ETO, demand response, etc.

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Net Metering

Staff first notes that it has not identified any specific risks that would warrant rejection of this filing based on concerns around net metering. Staff understands the challenges that having to individually net meter solar in a multi-unit dwelling pose. Staff further notes that it supports future discussions around these issues which might seek to promote the applicability of this exemption for net metering. Staff examines this risk in light of any potentially unforeseen or unintended consequences.

One mitigation strategy already proposed by the Company is to require that the units not be sub-metered. While sub-metering would potentially allow for reduced cross-subsidization risk, it also removes a large portion of the potential cost savings of master metering. The proposal effectively prohibits a situation where the dwelling unit could be individually metered but for a desire to aggregate load. While Staff notes that this does not prohibit net metering for this application, it does somewhat limit it.

Conservation Risks

Staff notes that the Company's proposed exemption requirements do address this risk in some way.

The requirement to obtain a state building code exemption ensures that a state building inspector has looked at the building plans and determined that a master meter will likely result in reduced energy consumption.

The prohibition on sub metering also promotes conservation in a more indirect manner. The landlord is ultimately responsible for setting a price for utilities in an accurate manner in accordance with state law. If consumption is above the estimated amount, the landlord could be short of full recovery for at least some time. It requires the landlord to take on a certain level of risk, and pushes the design of the apartments towards ensuring that energy abuse is not a major issue. This results in aligning the owner's incentives with the goals of PURPA to promote conservation.

Finally, the requirement that each unit have expected non-heating loads of less than 250 kWh is meant to limit the potential risk that tenants will use large amounts of electricity. In order to examine the level of restriction a 250 kWh requirement is, Staff analyzed individual level data for every multi-family customer within PacifiCorp Oregon service territory from 2017-2022. Staff found that roughly 42 percent of all apartments currently taking service from PacifiCorp average 250 kWh or less non-heating/cooling energy consumption in a given month.³ However, this metric does not account for any apartments or condos that may have had reduced consumption over a six-month period

³ Staff assumed that 50 percent of energy usage was for heating/cooling so Staff utilized 500 kWh as the relevant metric during winter months.

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due to vacancy.⁴ Staff also looked at the number of multi-family residents that had not surpassed 250 kWh non-heating consumption in any month, and found that about 20 percent had not eclipsed 250 kWh in each six-month interval. Staff finds that the exemption is targeting housing developments that are more efficient or use less energy than 50-80 percent of the existing rental units that the Company currently serves. This somewhat supports the Company, which stated in response to Staff IR No. 13 that, “the specific requirements that the Company proposes for individual metering exemption eligibility in this filing will mitigate against excessive usage by only applying to residential developments that are likely to have very low per resident usage levels.”

However, Staff does note that the data analyzed was of individually metered customers, who presumably have to pay for every watt of electricity they use. Further Staff notes that the usage included heating/cooling, and which required assumptions to be made to estimate the non-heating/cooling load. Thus, Staff proposes that the Company provide the Commission with a report of the number of buildings utilizing this exemption by August 2024.

The report should identify the number of applications received and approved, and the estimated demand associated with each application. If utilization is determined to warrant further analysis of risk, Staff believes one possible solution could be to have the Company then provide a report with estimated per unit consumption for any building utilizing this exemption. This follow-up report should be timed to provide sufficient time for actual consumption data to be collected and provide the Commission with assurance that the limitation is functioning as intended.

Conclusion

Staff finds that Pacific Power’s proposed amendments to Rule 8 are in the public interest with its proposed additional stipulations. Staff believes that an exemption process is warranted given the direction from the state building codes. Staff notes that the Company’s proposal addresses and mitigates many of the concerns. Staff believes that the two additional recommendations, to address low-income rate application and a report to ensure risks have not grown out of proportion, further help to ensure the proposal is in the public interest. Finally, Staff encourages the Company to continue to monitor and bring forward ideas to provide further safeguards as identified.

⁴ Staff examined all data in 6-month intervals (Jan-June, July-Dec) and aggregated data together due to computer limitations and to reduce calculation times. Staff did remove months with no energy demand for average calculations but made no other adjustments to the data.

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PROPOSED COMMISSION MOTION:

Approve Pacific Power's (PacifiCorp or Company) Advice No. 22-005, which amends Rule 8 with the following stipulations, effective with service on and after August 10, 2022.

1. The Company must use good-faith efforts to discuss and propose any viable solution for allowing qualifying tenants residing in any unit that is subject to this exemption access to the proposed Schedule 7 energy prices on the same forty-five-day timeline directed by the Commission in regards to ADV 1412.
2. The Company must provide the Commission with a report of the number of buildings utilizing this exemption by August 2024.

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