



Portland General Electric Company
Legal Department
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David F. White
Assistant General Counsel

January 28, 2013

Via Electronic Filing and U.S. Mail

Oregon Public Utility Commission
Attention: Filing Center
550 Capitol Street NE, #215
PO Box 2148
Salem OR 97308-2148

**Re: UM 1422 - APPLICATION OF PORTLAND GENERAL ELECTRIC COMPANY
FOR WAIVER OF OAR 860-038-0640**

Attention Filing Center:

Enclosed for filing in the captioned docket are an original and one copy of:

- **APPLICATION OF PORTLAND GENERAL ELECTRIC COMPANY FOR
WAIVER OF OAR 860-038-0640, COMPLIANCE FILING REQUIREMENTS
FOR 2013**

This being filed by electronic mail with the Filing Center.

An extra copy of the cover letter is enclosed. Please date stamp the extra copy and return to me in the envelope provided.

Thank you in advance for your assistance.

Sincerely,
A handwritten signature in cursive script that reads "David F. White".

David F. White
Assistant General Counsel

DFW:smc
CUB, ICNU

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

In the Matter of

PORTLAND GENERAL ELECTRIC
COMPANY,

Application for Waiver of OAR 860-038-0640,
Compliance Filing Requirements for 2013.

**APPLICATION OF PORTLAND
GENERAL ELECTRIC COMPANY**

Pursuant to OAR 860-038-0001(4), PGE hereby requests that the Commission waive the compliance requirement contained in OAR 860-038-0640 that requires that, in odd numbered years, the Company engage an independent third party reviewer to prepare a report that attests to compliance with the Direct Access Code of Conduct contained in OAR 860-0038-0500 through OAR 860-38-0640. By June 1st of the audit year, the Company must file the report with the Commission.

"Good cause" exists for a waiver from the filing requirements contained in OAR 860-038-0640. Granting the waiver will cause no harm to PGE's customers, potential competitors, or the Company.

The Company has complied with these rules as demonstrated in previous compliance reports to the Commission. Moreover, PGE has an immaterial level of competitive operations. The circumstances that warrant this type of audit and report, namely substantial competitive operations, simply are not present. The Company further notes that this waiver would not affect the Commission's ability to request information or investigate concerns.

A. Discussion

The waiver, if granted, will provide the Company as well as the Commission with an opportunity to deploy valuable resources to other important matters for 2013. Given PGE's demonstrated compliance with the Code of Conduct rules over the years, a 2013 compliance review is not likely to reveal deficiencies with compliance, nor present material opportunities for improved compliance.

The purpose of Code of Conduct is explained in OAR 860-038-500 which states, "[t]he Code of Conduct is designed to protect against market abuses and anticompetitive practices by electric companies in the Oregon retail electricity markets." More specific Code of Conduct standards are then set out in OAR 860-038-0520 through 860-038-0620. OAR 860-038-0640, Compliance Filings adds the review and reporting requirements and states:

By June 1 of each odd numbered year, an electric utility company must file a verified report prepared by an independent third-party regarding the electric company's compliance with OAR 860-38-0500 through 86-038-0620 for the prior two calendar years.

Since the rules have been in effect (2001), the Company has demonstrated that it complies with Code of Conduct rules as validated by external audits in the calendar years of 2003, 2005, 2007 and 2011. In 2009, the Commission granted PGE a waiver from the independent verification requirements. No deficiencies or violations were noted in any of the calendar years audit reviews were conducted. Additionally, PGE knows of no complaints filed with the Commission regarding the Company's compliance with the Code of Conduct rules.

As the rule explains, the company must file a report based on an independent third party evaluation of the Company's compliance to the Code of Conduct rules. The Company must, between the end of 2012 and June 1, 2013, engage the services of an independent third party

reviewer to verify the Company's compliance. This process has, in the past, included steps where key personnel are interviewed, critical processes reviewed, and the verified results filed in a prepared report to the Commission. The auditing effort has required, on a biennial basis, the Company to reallocate resources, from other activities, to coordinate, facilitate and engage in this review. Based on previous reporting preparations, an independent reviewer audit and report will cost more than \$150,000 to administer. Additionally, for PGE personnel who assist the reviewers in coordinating the reviewer's requests for information, gathering requested material and arranging for interviews with Company personnel is a time consuming undertaking. Granting a waiver of 860-038-0640, will allow the Company and the Commission to more effectively apply available resources to other important matters during the time that would otherwise be spent on the review and reporting process in 2013.

History supports the Company's request for the waiver. The Company has submitted the required report in 2003, 2005, 2007 and 2011 (with a waiver granted in the calendar year of 2009). With each report, the independent auditor/reviewer assessed the Company's compliance with the OARs and the Company submitted the findings to the Commission. Each review/audit¹ report shows that PGE has complied with the rules from the time they went into effect in 2001. Further, the Company's business practices continue to be structured to comply with the rules such that Company operations will not jeopardize adherence to the rules.

Importantly, the Company continues to proactively work to ensure that the Company is maintaining an environment of awareness of the rules including biennial Code of Conduct compliance training. Regular training is carried out with key employees and selected

¹ Order No. 06-0225 adopted changes to OAR 860-0038-0640 that replaced the "independent audit" with a biennial report prepared by an independent third party.

workgroups on specific rules that pertain to their activities. In addition, the Company has subject matter experts available to assist in answering questions or concerns at any time.

PGE observes that history shows no complaints have been filed with the Commission related to the Code of Conduct rules. The absence of complaints filed with the Commission confirms that no issues or concerns have been identified; the Company's compliance performance is solid.

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 2012, non-utility revenues were slightly over \$2 million or about 0.1% of regulated revenues. Given this immaterial level of competitive operations, it does not appear that the circumstances are present that might warrant the expense and impact on resources associated with the audit and report. The Company further notes that this waiver would not affect the Commission's ability to request information or investigate concerns.

Therefore, we respectfully request that PGE be granted a waiver from having to conduct a third party audit and the next biennial report due on June 1, 2013.

B. Communications

Communications regarding this Application should be addressed to the following email address: pge.opuc.filings@pgn.com

Please mail hardcopies to:

Karla Wenzel
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121 SW Salmon Street, 1WTC0702
Portland, OR 97204
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121 SW Salmon Street, 1WTC1301
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C. Conclusion

PGE believes that "good cause" exists to waive the requirements under OAR 860-038-0640. PGE further believes that based on reporting history and the Company's commitment to on-going training and awareness efforts, along with the Commission's review of PGE's compliance reporting in 2003, 2005, 2007, and 2011 the Company's adherence to the Code of Conduct is evident.

PGE has demonstrated that it operates its business as required under the rules with no violations assessed or complaints registered regarding compliance to these rules. We believe a waiver is beneficial, and if granted, no harm will come to our customers, potential competitors or to the Company and a waiver from this requirement will save the Company the expense of reserving valuable resources to coordinate a review where performance under the rule is and has been in compliance. Finally, PGE's immaterial level of competitive operations indicates that the circumstances that might warrant a report are not present.

For all of the reasons described above, the Company requests that the Commission approves the request for waiver from the requirements of OAR 860-038-0640 as described herein.

DATED this 28th day of January, 2013.

Respectfully submitted,

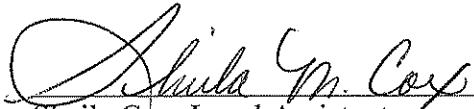


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CERTIFICATE OF SERVICE

I hereby certify that I have this day caused **PGE's Application for Waiver of OAR 860-038-0640 Compliance Filing Requirements for 2013** to be served by electronic mail to those parties whose email addresses appear on the attached service list for OPUC Docket No. UM 1422. Additionally, CUB and ICNU were served.

Dated at Portland, Oregon, this 28th day of January, 2032.



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**SERVICE LIST – 1/28/13
OPUC DOCKET # UM 1422**

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