



Portland General Electric
121 SW Salmon Street • Portland, OR 97204
portlandgeneral.com

December 21, 2022

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

RE: UM 1422 PGE Application for Waiver of OAR 860-038-0640 Requirements

Portland General Electric Company (PGE) hereby submits an Application for Waiver of OAR 860-038-0640, Compliance Filing Requirements for 2023.

Please direct questions to Mary Widman at mary.widman@pgn.com Please direct all formal correspondence and requests to the following email address pgc.opuc.filings@pgn.com

Sincerely,

\s\ Robert Macfarlane

Robert Macfarlane
Manager, Pricing and Tariffs

Enclosure

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1422

In the Matter of

PORTLAND GENERAL ELECTRIC
COMPANY,

Application for Waiver of OAR 860-038-0640,
Compliance Filing Requirements for 2023.

**APPLICATION OF PORTLAND
GENERAL ELECTRIC COMPANY**

Pursuant to OAR 860-038-0001(4), Portland General Electric Company (PGE or Company) hereby requests that the Commission waive the requirement in OAR 860-038-0640 for PGE to submit a compliance filing by June 1 of 2023. The rule requires the Company, in odd numbered years, engage an independent third-party reviewer to prepare a report attesting to the Company's compliance with the Direct Access Code of Conduct contained in OAR 860-038-0500 through 860-038-0620. The rule directs the electric company to file the verified report. As discussed below, good cause exists for a waiver from the verified report filing required in OAR 860-038-0640, and a waiver will cause no harm to PGE's customers, potential competitors, or to the Company.

The Division 38 Direct Access Code of Conduct OAR 860-038-0500, governs the interactions and transactions among the electric company (i.e., PGE), its Oregon affiliates and its competitive operations. It is designed to protect against market abuses and anti-competitive practices by electric companies in the Oregon retail electricity markets. PGE notes that the scope of this required review and reporting is narrow, as PGE does not have any Oregon affiliates (defined as an affiliate engaged in the sale or marketing of electricity services or directly related

products in an Oregon retail market), and the scope of its competitive operations are very limited.

The Company proactively works to maintain an environment of awareness of the rules pertaining to the Direct Access Code of Conduct and has a strong history of compliance with the rules. As stated above, PGE has no Oregon affiliates, as defined in the rules, and an immaterial level of three competitive operations: Schedule 54 Large Nonresidential Renewable Energy Certificates Rider, Schedule 320 Meter Information Services, and Schedule 715 Electrical Equipment Services. Hence, the circumstances driving the policy rationale for the type of audit and report required by the rules simply are not present. In addition, granting a waiver will not affect the Commission's ability to request information or investigate concerns.

A. Discussion

The Direct Access Code of Conduct sets forth specific standards in OAR 860-038-0520 through 860-038-0620, including use of PGE's name and logo by its competitive operations (and accompanying disclaimer), fair treatment of competitors of PGE's competitive operations, prevention of cross subsidization between competitive and regulated operations, transmission and distribution access, and Commission access to books and records.

The waiver, if granted, will not result in a lack of Commission oversight of or PGE's compliance with these standards. As evidenced by PGE's demonstrated compliance with the Direct Access Code of Conduct rules over the years, a 2023 compliance review is not likely to reveal deficiencies with compliance, nor present material opportunities for improved compliance.

Culture of Compliance and Division 38 Awareness

The Company proactively works to maintain a work environment of awareness of, and compliance with, the Direct Access Code of Conduct rules. The employees in PGE's few competitive operations have an especially heightened knowledge of the Code of Conduct and exercise day to day vigilance in understanding and compliance. Historically, the Company has conducted Division 38 training biennially to targeted employees and certain departments. The Company recently concluded its 2022 Division 38 high-level awareness message to those groups. Although no Division 38 training is required, the Company provided a high-level awareness reminder message. The Company has subject matter experts (regulatory and legal) available to assist in answering coworker questions or concerns regarding the requirements of Division 38 Direct Access Code of Conduct at any time.

PGE has repeatedly shown that it complies with the Code of Conduct rules as demonstrated by external third-party reviews in the calendar years of 2003, 2005, 2007, 2011, and 2021. OPUC verified approvals for internal reviews were conducted by PGE's Internal Audit Service in years 2017 and 2019. Due to culture of compliance and ongoing Division 38 training, PGE received waivers in 2009, 2013, and 2015. With each verified report, the independent auditor/reviewer assessed the Company's compliance with the OARs and the Company submitted the findings to the Commission. Each report shows that PGE has complied with the rules since they went into effect in 2001. The 2021 verified report, which covered the years 2019 and 2020, was prepared by Deloitte & Touche and submitted on August 31, 2021 (Order No. 21-179 approved waiver of the June 1st deadline to September 1, 2021). Deloitte & Touche reviewed all aspects of the Direct Access Code of Conduct, conducted interviews, reviewed documentation and reviewed processes, and found the Company to be in compliance with the Direct Access

Code of Conduct rules. Additionally, PGE is not aware of any complaints ever being filed with the Commission regarding the Company's compliance with the Direct Access Code of Conduct rules.

Costs of Obtaining a Third-Party Review and Report

To comply with OAR 860-038-0640, the Company must 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 by the reviewer, critical business processes reviewed, and the verified results filed in a report to the Commission. The “auditing” effort has required, on a biennial basis, the Company to allocate significant resources to coordinate, facilitate, and engage in this review. Based on previous reporting preparations, the independent review and report is estimated to cost more than \$65,000.00. Gathering the requested material and arranging for interviews with Company personnel is an additional time-consuming and costly undertaking. These costs do not include the time and expense of the Commission and Commission Staff in reviewing the report. Granting a waiver of the 2023 independent review requirement will result in significant financial and time savings to the Company and the Commission.

In summary, given the immaterial level of competitive operations, combined with the Company's proactive efforts to train employees on the Direct Access Code of Conduct requirements and the Company's solid compliance history it does not appear that the circumstances are present that might warrant the expense and drain on resource 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.

B. Communications

Communications regarding this application should be addressed to:

Robert Macfarlane
Manager, Pricing and Tariffs
Portland General Electric Company
121 SW Salmon Street, 1 WTC0306
Portland, OR 97204
Phone: 503.464.8954
Fax: 503.464.7651
E-mail: rob.macfarlane@pgn.com

Brendan McCarthy
Assistant General Counsel III
Portland General Electric Company
121 SW Salmon Street, 1WTC1301
Portland, OR 97204
Phone: 503.464.7371
Fax: 503.464.2200
E-mail: brendan.mccarthy@pgn.com

C. Conclusion

As discussed above, good cause exists to waive the requirements under OAR 860-038-0640. The Company's reporting history, its commitment to on-going training and awareness efforts, and the Commission's review of PGE's compliance reporting in 2003, 2005, 2007, 2011, 2017, 2019, and 2021 demonstrate the Company's adherence to the Code of Conduct. Moreover, the fact that PGE has no Oregon affiliates and few competitive operations indicates that the circumstances that might warrant the independent report required by the rule are not present. A waiver will allow the Company and Commission Staff to deploy resources to other matters in 2023 and will cause no harm to our customers, potential competitors or to the Company.

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

DATED this 21st day of December, 2022.

\s\ Brendan McCarthy

Brendan McCarthy
Assistant General Counsel III
Portland General Electric Company
121 SW Salmon St., 1WTC1301
Portland, OR 97204
Telephone: 503.464.7371
Fax: 503.464.2200
E-Mail: brendan.mccarthy@pgn.com