

**PUBLIC UTILITY COMMISSION OF OREGON  
STAFF REPORT  
PUBLIC MEETING DATE: August 10, 2021**

REGULAR  X  CONSENT \_\_\_\_\_ EFFECTIVE DATE  August 11, 2021

**DATE:** August 2, 2021

**TO:** Public Utility Commission

**FROM:** Brian Fjeldheim and Scott Gibbens

**THROUGH:** Bryan Conway and John Crider **SIGNED**

**SUBJECT:** PORTLAND GENERAL ELECTRIC:  
(Docket No. ADV 1264/Advice No. 21-11)  
Request to update Schedule 55, Large Nonresidential Green Energy  
Affinity Rider tariff to comply with Commission Order No. 21-091.

**STAFF RECOMMENDATION:**

Approve Portland General Electric's (PGE or Company) Advice No. 21-11, which revises language in PGE's Schedule 55 Green Energy Affinity Rider (GEAR) program tariff, effective for service rendered on and after August 11, 2021, on less than statutory notice.

**DISCUSSION:**

Issue

Whether the Oregon Public Utility Commission (OPUC or Commission) should approve PGE's proposed language revisions to Schedule 55, PGE's GEAR program.

Applicable Law

ORS 757.205 requires public utilities to file schedules showing all rates, tolls, and charges for service that have been established and are in force at the time.

ORS 757.210 (1)(a) states a utility must show that a proposed rate or schedule of rates is fair, just, and reasonable. The Commission may authorize a rate or schedule of rates only if it is deemed to be fair, just, and reasonable.

ORS 757.220 requires 30 days' notice to changes to utility rates and schedules, except upon a finding of good cause shown.

OAR 860-022-0015 states that energy utilities must provide the Commission with at least 30 days' notice prior to the effective date for any change in rates, tolls, charges, rules, or regulations.

OAR 860-022-0025 illustrates energy utility requirements for filing tariffs or changes to rate schedules.

### Analysis

#### *Background*

PGE's GEAR program is a voluntary renewable energy tariff (VRET). In Order No. 21-091 (OPUC Docket No. UM 1953), the Commission approved Phase 2 of PGE's GEAR program, as well as updating the VRET Conditions.<sup>1</sup>

On April 29, 2021, the Company filed Advice No. 21-11, which proposes to modify tariff language in Schedule 55, in compliance with the Commission's Phase 2 VRET Order. Following feedback from Staff and other interested parties, PGE filed replacement sheets extending the effective date and updating language on May 21, 2021, June 8, 2021, June 17, 2021, July 14, 2021, and July 29, 2021. The most recent replacement sheets were filed with Less than Statutory Notice (LSN), due to the effective date being within 30 days. Per the Company's filing and subsequent discussion with PGE, this filing:

- Fixes grammatical errors.
- Removes an erroneous reference to Federal Public Utility Regulatory Policies Act (PURPA) used in the description of bill credit determination.
- Clarifies language within the Schedule.
- Adds language that eligible renewable energy resources serving Schedule 55 customers must be operational no earlier than one year prior to inclusion in the GEAR program.
- Refers to Order No. 21-091 for Company owned resource processes.
- Denotes Company owned resources as a GEAR eligible resource.
- Describes the enrollment process.
- Identifies distinctions between and restrictions on the Customer Supplied Option (CSO) and PGE Supplied Option (PSO).

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<sup>1</sup> *In re Portland General Electric*, OPUC Docket No. UM 1953, Order No. 21-091 (Mar. 29, 2021) (amended by Order No. 21-096 on Mar. 30, 2021, which provided non-substantive changes to the Order).

On May 25, 2021, representatives from PGE, Staff, and the Oregon Department of Justice (DOJ) participated in a teleconference meeting to discuss the Company's proposed Schedule 55 tariff filing. Specifically, Staff and DOJ sought clarification related to a PGE-ownership option for the CSO portion of its program.

Between that time and the present, Staff has periodically requested for PGE to extend the rate-effective date in order to further the dialog with the company and gain better understanding of its position.

PGE's proposed edits to its Schedule 55 include changing the definition of "Customer Supply Option" by removing the reference to a PPA resource sourced by an eligible Subscribing Customer and replacing it with a "resource procured" by a Subscribing Customer.

Upon review, Staff had concerns about the introduction of a utility-ownership option for the CSO portion of GEAR, and questions about the implications of this change related to the application of the Competitive Bidding Rules (CBRs). Discussions with PGE confirmed that the Company did intend that a CSO resource could be utility-owned pursuant to its interpretation of the Commission's order, and that the CBRs would be applicable (or otherwise subject to waiver).

Based on the proposed changes and Staff's discussion with PGE, Staff was concerned that there may not be a shared understanding of the distinction between the CSO option and the PGE-supplied option of its GEAR program. These issues were also a concern in Phase I of this proceeding, and ultimately taken to the Commission for resolution.<sup>2</sup>

Staff continues to view the CSO option, which has its own cap within PGE's program, as an option for sophisticated customers that identify resources subject to minimum requirements (posted by PGE) as vetted by the Subscribing Customer. The intent for this portion of the program is, in part, in response to competitive marketplace concerns and should have distinguishing characteristics from a PGE supplied option, in which PGE sources and procures the resource. It is unclear to Staff how, in practice, a CSO Subscribing Customer could source a utility-owned project.

Regarding the distinction between the CSO and PSO, parties previously filed a stipulated motion to amend Order No. 19-075, which described the measurable and testable distinctions between the CSO and PSO. As part of the agreement, parties set up a deadline to identify if there was customer interest in the CSO. Following the

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<sup>2</sup> UM 1953 – Staff Public Meeting Memo for Compliance Filing (Oct. 22, 2019 public meeting); *In re Portland General Electric*, OPUC Docket No. UM 1953, Order No. 20-036 (Jan. 31, 2020).

deadline of March 23, 2020, PGE or any party could file to amend the division of capacity under the cap between the CSO and PSO to allow for additional participation based on demand. On March 25, 2020, PGE filed a customer's letter of intent to enroll in the CSO program and use all available CSO capacity under the cap, affirming customer interest in the CSO program and mooted the possibility of transferring capacity to the PSO. The Commission approved the stipulated motion in Order No. 20-036 (Order). In the Order, the Commission states:

The stipulating parties agree that PGE may have no role in CSO project procurement prior to any cap changes. While CSO and PGE-procured projects may be the same, the CSO customer must independently select the shared resource and the contracts must be negotiated separately. PGE's role would be limited to providing interested customers with information about: (1) program description and mechanics; (2) the queue and remaining capacity under the cap; (3) the possibility that beginning March 23, 2020, the Commission may consider changes to program capacity for effect no earlier than June 1, 2020; and (4) the Renewable Northwest website as a source of a map of potential projects and developers. PGE will work with interested CSO customers, and the CSO customer will determine the appropriate point in time to involve PGE during contract negotiations. PGE will maintain final contract approval, but may only object to qualifying PPAs to avoid shifting costs and risks onto non-participating customers or PGE shareholders.<sup>3</sup>

Following further discussions between PGE and Staff, the Company revised the language in PGE's current filing to more directly consider the distinctions noted in the stipulated agreement. As noted by PGE in its July 29, 2021, filing, however, some aspects of the stipulation proved unworkable in operation. In particular, the restriction which required that PGE could only discuss with customers interested in the CSO a preset list of information proved problematic. As such, PGE refined the language to capture the intent of the stipulation in a more manageable fashion.

On July 22, 2021, PGE held a workshop to elicit stakeholder feedback on the advice filing. Walmart, Calpine Energy Solutions, Northwest and Intermountain Power Producers Coalition (NIPPC), PacifiCorp, Citizen's Utility Board (CUB), Alliance of Western Energy Consumers (AWEC), Renewable Northwest (RNW), Staff, and Department of Justice attended the workshop. Following the workshop, NIPPC filed comments pertaining to the most recent schedule update. PGE then made its final revision to the tariff sheets on July 29, 2021.

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<sup>3</sup> Order No. 20-036, page 3.

Staff notes that because there is no utility-ownership proposal for consideration at this time, and the proposed language change in the tariff allows for operation of the program to continue with a CSO-customer sourcing a PPA-based resource, Staff's concerns can be addressed in a future proceeding. However, Staff also cautions PGE that it may raise concerns regarding utility ownership of a CSO resource in a future proceeding.

Staff finds that the Company acted in good faith to attempt to find language for the Schedule that was both viable for the Company's operations and consistent with the principles of the stipulation. Staff finds the changes to Schedule 55 to be reasonable and clear. Staff has no other substantive concerns with the Company's filing, and recommends that the Commission approve PGE's proposed revisions. Staff's recommendation should not be interpreted as support for PGE's potential future application of the CSO program related to utility ownership.

Given that the current Advice No. 21-11 was filed on less than statutory notice following additional process to address Staff's and stakeholders' concerns, Staff finds that approval on less than statutory notice is appropriate. Staff believes that some parties may raise objections to the tariff changes and looks forward to discussing those concerns at the upcoming public meeting.

### Conclusion

The Commission should approve PGE's proposed tariff changes. Staff's conclusion, however, should not be interpreted or used as evidence of Staff's support for a utility-ownership option under the CSO portion of its GEAR program.

### **PROPOSED COMMISSION MOTION:**

Approve PGE's proposed Advice No. 21-11, which revises language in PGE's Schedule 55 GEAR tariff, effective for service rendered on and after August 11, 2021, on less than statutory notice.