



**ORDER**

IT IS ORDERED that the Commission finds that implementation of Sections 2 and 6 of SB 1149 will not have a material adverse impact on Portland General Electric's and PacifiCorp's access to cost based power from the Bonneville Power Administration.

Made, entered, and effective \_\_\_\_\_.

---

**Ron Eachus**  
Chairman

---

**Roger Hamilton**  
Commissioner

---

**Joan H. Smith**  
Commissioner

A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. The request must be filed with the Commission within 60 days of the date of service of this order and must comply with the requirements in OAR 860-014-0095. A copy of any such request must also be served on each party to the proceeding as provided by OAR 860-013-0070(2). A party may appeal this order to a court pursuant to applicable law.

um926orderapr23.doc

**PUBLIC UTILITY COMMISSION OF OREGON  
STAFF REPORT  
PUBLIC MEETING DATE: April 3, 2001**

**REGULAR AGENDA X CONSENT AGENDA    EFFECTIVE DATE NA**

**DATE:** March 26, 2001  
**TO:** Phil Nyegaard  
**FROM:** Marc Hellman through Lee Sparling  
**SUBJECT:** Implementation of SB 1149 and Access to power from Bonneville Power Administration

**SUMMARY RECOMMENDATION:**

I recommend the Commission issue an order, no later than May 1, 2001, finding that implementation of Sections 2 and 6 of SB 1149 will not have a material adverse impact on Portland General Electric's and PacifiCorp's access to cost based power from the Bonneville Power Administration.

**DISCUSSION:**

This memo addresses a requirement placed on the Commission by SB 1149 regarding the effect of implementing this bill on access to cost-based power from the Bonneville Power Administration (BPA). Section 18 of SB 1149 requires the Commission to make an initial determination, and issue an order, by May 1, 2001, as to whether implementing Sections 2 and 6 would have a material adverse impact on access to cost-based BPA power by Portland General Electric (PGE) and PacifiCorp on behalf of their residential and small-farm consumers. This Commission determination is very important because unless the Commission finds that Sections 2 and 6 do not have a material adverse impact on access to cost-based BPA power, many key provisions of SB 1149 cannot become operative.

Section 2 of SB 1149 requires PGE and PacifiCorp to offer all nonresidential consumers direct access no later than October 1, 2001. In addition, Section 2 requires PGE and PacifiCorp to offer residential consumers a portfolio of rate offerings by the same date. Section 6 of SB 1149 relates to electric industry market structure issues and provides the Commission the discretion as to whether to provide PGE and PacifiCorp incentives to divest generation resources.

These two sections raise issues relevant to access to cost-based BPA power. Both PGE and PacifiCorp have access to cost-based BPA power beginning October 1, 2001. BPA offers to provide PGE and PacifiCorp cost-based power totaling 259 AMW and 135 AMW, respectively. (BPA is also offering additional benefits in the form of cash.) In docket UM 926, the Commission investigated whether to require PGE and PacifiCorp to accept BPA's offer for this amount of power, as well as additional benefits in the form of cash. (Section 19 of SB 1149, now ORS 757.663, provides the Commission with the authority to require PGE and PacifiCorp to enter into contracts with BPA.) In the Commission's Order No. 00-678, the Commission directed PGE and PacifiCorp to execute 10-year contracts with BPA under terms consistent with BPA recent Records of Decisions. Docket UM 926 has not closed and will remain open through the period ending thirty days after FERC grants interim approval to BPA's reopened WP-02 proceeding.

Several federal statutes directly associated with BPA affect whether, and to what extent, PGE and PacifiCorp may purchase power offered by BPA. Beginning October 1, 2001, BPA offers to sell power to PGE and PacifiCorp pursuant to Section 5(b) of the PNW Power Act. In order for PGE and PacifiCorp to qualify to purchase the amount of power offered by BPA, both PGE and PacifiCorp must show a resource-to-load deficit at least as large as the amount of BPA power offered. In addition, in order for PGE and PacifiCorp to qualify to purchase power from BPA, under 5(b), each utility must meet BPA's eligibility standards. My understanding of the standards is they require a utility to be responsible for operating and maintaining its distribution system and the utility must be obligated to serve all of its consumers.

#### SB 1149 and BPA's Eligibility Standards

Sections 2 and 6 of SB 1149 do not contain any provisions that require the utilities to restructure in such a way that the utilities could not meet BPA's eligibility requirements. SB 1149 allows the utilities to continue to be obligated to serve all of their consumers. SB 1149 also does not change the utility obligation to maintain and operate its distribution system.

I should note that the administrative rules adopted by the Commission are consistent with BPA's eligibility standards. In addition, in the restructuring and general rate filings, UE 115 (PGE) and UE 116 (PacifiCorp), both utilities propose to continue to maintain and operate their distribution systems; and, propose to provide the standard offers and portfolio products. Therefore, I recommend the Commission find that implementing Sections 2 and 6 will not materially harm PGE's and PacifiCorp's access to cost-based power from an eligibility perspective.

### Net Requirements

Sections 2 and 6 of SB 1149 do contain provisions that potentially could materially harm PGE's and PacifiCorp's access to cost-based BPA power. (That is why Section 18 of SB 1149 exists.) Direct access, for example, could be viewed as reducing a utility's net requirements and the amount of power available from BPA. To address this potential, the Commission has actively worked with BPA to ensure that SB 1149 could be implemented without harming PGE's and PacifiCorp's access to BPA cost-based power. During 2000, after several discussions between BPA staff and Commission staff, BPA staff developed a novel use of a "Put" option such that power could be continued to be delivered to the utility in the event that the utility's net requirements became less than the amount of power offered by BPA.

This BPA idea was discussed in several forums including Commission public meetings. For example, the Commission held a Special Public Meeting on June 30, 2000, to discuss BPA-related issues. At that Special Public Meeting the "Put" option was discussed. The conclusion tentatively reached in those meetings was that the "Put" option contract language would allow power deliveries to continue even in the event that PGE's or PacifiCorp's net requirements changed as a result of implementing Sections 2 and 6 of SB 1149.

In addition, the Commission submitted written comments to BPA, dated June 9, 2000, supporting the "Put" option as drafted in the Draft Settlement Agreement Contract. The Commission noted that this language would allow power deliveries to continue in the event power could not be delivered due to insufficient net requirements. BPA has continued to retain this "Put" option language in the contracts with the utilities. Therefore, I recommend the Commission find that implementing Sections 2 and 6 will not materially harm PGE's and PacifiCorp's access to cost-based power from a net requirements perspective.

### **STAFF RECOMMENDATION:**

I recommend the Commission issue an order finding that implementation of Sections 2 and 6 of SB 1149 will not have a material adverse impact on Portland General Electric's and PacifiCorp's access to cost based power from the Bonneville Power Administration.