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BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UP 188/UI 191

In the Matter of the Application for Approval for)	
Conduit and Optic Fiber Exchange of Rights)	ORDER
Between PORTLAND GENERAL ELECTRIC)	
COMPANY and PORTLAND GENERAL)	
DISTRIBUTION, LLC, an Affiliated Interest.)	
)	

**DISPOSITION: APPLICATION APPROVED;
WITH CONDITIONS**

On August 24, 2001, the Public Utility Commission of Oregon (Commission) received an application from Portland General Electric Company (PGE or the Company), filed pursuant to ORS 757.495 and OAR 860-027-0025 (for property transactions – UP 188), OAR 860-027-0040, and OAR 860-027-0041 (for affiliated interest transactions – UI 191). The basis for the current request is detailed in Staff’s recommendation memo, attached as Appendix A.

Based on a review of the application and the Commission’s records, the Commission finds that the application satisfies applicable statutes and administrative rules. At its Public Meeting on October 9, 2001, the Commission adopted Staff’s recommendation to approve PGE's current request.

OPINION

Jurisdiction

ORS 757.005 defines a public utility as anyone providing heat, light, water, or power service to the public in Oregon. Portland General Electric Company is a public utility subject to the Commission’s jurisdiction.

CONCLUSIONS

1. The Company is a public utility subject to the jurisdiction of the Public Utility Commission of Oregon.
2. An affiliated interest relationship exists between Portland General Electric Company and Portland General Distribution, LLC.
3. The application appears to be fair and reasonable and not contrary to the public interest.
4. The requirements necessary for waiver of the requirements of OAR 860-027-0040 and OAR 860-027-0041 have been met.

ORDER

IT IS ORDERED that the application, presenting the agreement for conduit and optic fiber exchange of rights between Portland General Electric Company and Portland General Distribution, LLC, is approved, with certain conditions, as further specified in Appendix A.

Made, entered and effective _____.

BY THE COMMISSION:

Vikie Bailey-Goggins
Commission Secretary

A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. A party may appeal this order to a court pursuant to ORS 756.580.

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: OCTOBER 9, 2001**

REGULAR _____ **CONSENT** X **EFFECTIVE DATE** _____

DATE: October 3, 2001

TO: Phil Nyegaard through Marc Hellman and Mike Myers

FROM: Tom Riordan

SUBJECT: UI 191/UP 188 – Portland General Electric Company (PGE) Application for Approval for Conduit and Optic Fiber Exchange of Rights between Portland General Electric and Portland General Distribution, LLC (PGD), an Affiliated Interest

SUMMARY RECOMMENDATION:

I recommend approval of the requested exchange of rights with the conditions noted in the detailed recommendation.

DISCUSSION:

PGE filed this application on August 24, 2001, pursuant to ORS 757.495 and OAR 860-027-0025 (for property transactions), OAR 860-027-0040, and OAR 860-027-0041 (for affiliated interest transactions). Additionally, the company requests a waiver of the requirements of OAR 860-027-0040 and OAR 860-027-0041, inasmuch as the book value of the of the conduit and fibers, covered by the application, is less than \$75,000 which is less than 0.007 percent of PGE's calendar 2000 utility operating revenues. The company seeks a Commission order approving an exchange of rights consisting of 1) a property lease from PGE to PGD for space in 21 blocks of conduit and 2) an indefeasible right of use (IRU) from PGD to PGE for 12 dark fibers along 35 blocks in the Portland east central business district loop. In that 35 block ring of conduit and optic fiber, PGE owns 21 blocks of conduit and MCI World Com (MCI) owns 14 blocks of conduit along with all the optic fiber running through that loop. PGE currently leases space in the 21 blocks to MCI for its fiber in the loop. Financial details of the transaction are described below.

PGE represents that its customers will benefit from this transaction, because PGE, as a result of the lease with PGD, will have 12 optic fibers, with a market value of \$51,700 that will provide PGE with potential communication opportunities, such as a fiber optic installation between the Canyon Substation and the World Trade Center, in support of its utility operations. Without this transaction, PGE would have no fiber in the downtown loop as MCI has notified PGE that MCI will withdraw their fiber from this loop. Additionally, PGE will receive the benefit of receiving fiber maintenance from PGD, at no cost. This benefit has an annual market value of approximately \$10,000.

The alternative to the proposed transaction between PGE and PGD is that PGE would: 1) lose \$21,594 per year in conduit rentals from MCI who would be withdrawing their fiber from the central business loop; 2) not receive the right to use the 12 maintained dark fibers, with a market value of approximately \$51,700 and not receive annual maintenance, with a market value of nearly \$10,000, and 3) not have access to the potential communications opportunities described previously.

Issues

I have investigated the following issues:

1. Scope and Terms of Agreements
2. Transfer Pricing and Allocation Methods
3. Public Interest Compliance
4. Records Availability, Audit Provisions, and Reporting Requirements
5. Waiver of Requirements of OAR 860-027-0040 and OAR 860-027-041

Scope and Terms of Agreements – Based upon my analysis of the agreements, there are no unusual or restrictive terms that would harm customers.

Transfer Pricing and Allocation Methods – The Commission transfer pricing policy for when an asset is transferred from regulated accounts to nonregulated accounts is the transfer shall be recorded in regulated accounts at the higher of net book value or fair market value. This policy likely has been met because PGE is leasing to PGD assets with a book value of \$75,000 that is less than the total value of approximately \$83,300 received by PGE. The total value received consists of the 12 dark fiber worth \$51,700, the continued lease revenue of \$21,600, and free fiber maintenance worth \$10,000. Staff has reviewed information, supplied by the company, that substantiates these financial facts.

Public Interest Compliance – PGE's customers are likely not harmed by this transaction, because the company is charging a fair and reasonable price for the asset that is being leased to its affiliate, PGD. Also, as stated above, PGE is in compliance with the Commission's affiliated interest transfer pricing policy.

Records Availability, Audit Provisions, and Reporting Requirements – Proposed ordering condition No. 1 provides the necessary records access to PGE's and PGD's books and records.

Waiver of Requirements of OAR 860-027-0040 and OAR 860-027-0041 - PGE's application clearly demonstrates, that due to the nominal dollars involved in this transaction, it meets the letter and spirit of administrative rule OAR 860-027-0043.

CONCLUSIONS:

Based on my investigation and review of this application, I conclude the following:

1. Portland General Electric Company is a regulated electric company subject to the jurisdiction of the Public Utility Commission of Oregon.
2. An affiliated interest relationship exists between Portland General Electric Company and Portland General Distribution, LLC.
3. The application appears fair and reasonable and not contrary to the public interest.
4. The requirements necessary for waiver of the requirements of OAR 860-027-0040 and OAR 860-027-0041 have been met.

DETAILED RECOMMENDATION:

I recommend that the Commission approve Portland General Electric Company's (PGE) application for conduit and optic fiber exchange of rights between Portland General Electric and Portland General Distribution, LLC, an affiliated interest and include the following ordering conditions in this matter. Also I recommend that the Commission grant the request for waiver of the requirements of OAR 860-027-0040 and OAR 860-027-0041:

1. PGE shall provide the Commission access to all books of account, as well as documents, data, and records of PGE and PGD's affiliated interests that pertain to this transaction.
2. The Commission reserves the right to review for reasonableness all financial aspects of this transaction in any rate proceeding or alternative

form of regulation.

3. PGE shall notify the Commission in advance of any substantive changes to the agreements, including any material change in price. Any such change shall be submitted in an application for a supplemental order (or other appropriate format) in this docket.
4. PGE shall file, as soon as available, copies of the final journal entries recording the transaction.

UI191/UP188MM