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**BEFORE THE PUBLIC UTILITY COMMISSION**

**OF OREGON**

UI 218

In the Matter of	)	
	)	ORDER
PORTLAND GENERAL ELECTRIC	)	
COMPANY	)	
	)	
Application Requesting Approval for Optic	)	
Fiber Lease Agreements with PORTLAND	)	
GENERAL DISTRIBUTION, LLC., an	)	
Affiliate.	)	

**DISPOSITION: APPLICATION APPROVED WITH CONDITIONS**

On September 25, 2003, Portland General Electric Company (PGE or the Company) filed an application with the Public Utility Commission of Oregon (Commission) pursuant to ORS 757.495 and OAR 860-027-0040, requesting approval for optic fiber lease agreements with Portland General Distribution, LLC. (PGD), an affiliated interest. PGE also requested a waiver of OAR 860-027-0040 in accordance with OAR 860-027-0043 since the value of the fiber transaction is approximately 0.003 percent of the previous calendar year's Oregon utility operating revenues. A description of the filing and its procedural history is contained in the Staff Report, attached as Appendix A, and incorporated by reference.

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 16, 2003, the Commission adopted Staff's recommendation. This written order memorializes the Commission's formal decision made at the October 16 Public Meeting.

**OPINION**

**Jurisdiction**

ORS 757.005 defines a "public utility" and the Company is a public utility subject to the Commission's jurisdiction.

**Affiliation**

An affiliated interest relationship exists under ORS 757.015.

**Applicable Law**

ORS 757.495 requires public utilities to seek approval of contracts with affiliated interests within 90 days after execution of the contract.

ORS 757.495(3) requires the Commission to approve the contract if the Commission finds that the contract is fair and reasonable and not contrary to the public interest. However, the Commission need not determine the reasonableness of all the financial aspects of the contract for ratemaking purposes. The Commission may reserve that issue for a subsequent proceeding.

**CONCLUSIONS**

1. The Company is a public utility subject to the jurisdiction of the Commission.
2. An affiliated interest relationship exists.
3. The agreement is fair, reasonable, and not contrary to the public interest.
4. The application should be approved, with certain conditions.

**ORDER**

IT IS ORDERED that the application of Portland General Electric Company to enter into an affiliated interest transaction with Portland General Distribution, LLC., is approved, subject to certain conditions, as further stated in Appendix A. It is further ordered that the waiver of OAR 860-027-0040 is also approved.

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

BY THE COMMISSION:

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**Becky L. Beier**  
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 16, 2003**

REGULAR \_\_\_\_\_ CONSENT  X  EFFECTIVE DATE \_\_\_\_\_

**DATE:** October 2, 2003

**TO:** Lee Sparling through Marc Hellman and Rebecca Hathorn

**FROM:** Michael Dougherty

**SUBJECT:** PORTLAND GENERAL ELECTRIC: (Docket No. UI 218) Application for Approval of Optic Fiber Agreements between Portland General Electric and Portland General Distribution, LLC.

**STAFF RECOMMENDATION:**

The Commission should approve Portland General Electric's (PGE) application for approval of optic fiber agreements with Portland General Distribution (PGD), and also approve a waiver of OAR-860-027-0040, subject to the following conditions:

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. Any such change shall be submitted in an application for a supplemental order (or other appropriate format) in this docket.
4. PGE shall offset the purchase and maintenance payments to PGD as outlined in Condition No. 6 of Commission Order No. 03-093.

**DISCUSSION:**

Background

PGE filed this application on September 25, 2003, pursuant to ORS 757.495 and OAR 860-027-0040. PGE requests Commission approval of optic fiber agreements with PGD. The agreements include \$38,290 to purchase an Indefeasible Right of Use (IRU)

for 24 dark optic fibers of a 96-fiber cable and \$1,000 annually for fiber maintenance. PGE and PGD are both wholly owned subsidiaries of Enron Corporation (Enron), and are affiliated interests under ORS 757.015.

PGE also seeks a waiver of OAR 860-027-0040 in accordance with OAR 860-027-0043 since the value of the fiber transaction is approximately 0.003% of the previous calendar year's Oregon utility operating revenues. This is the fourth affiliate transaction between PGE and PGD concerning exchange of rights (UI 218, UI 192, UI 191/UP 188, UP 189) and the aggregate amount of the transactions, \$296,990, is substantially less than the 0.1% required for a waiver.

PGE plans to complete a fiber optic ring between the World Trade Center (WTC), the Portland Service Center (PSC), and the Tualatin Customer Center (TCC). The ring will provide PGE with a self-healing<sup>1</sup> communication circuit that will have greater reliability than non-redundant circuits. The fiber optic ring also enhances PGE's disaster recovery system because of increased data transfer capabilities to backup sites.

PGE has optic fiber links between WTC and PSC and between WTC and TCC. The final segment of the ring will directly link TCC to PSC. The final segment is sub-divided into two sections. PGE owns the first section. PGD owns and maintains the second section and will sell to PGE an IRU in exchange for 25% contributions (\$38,290) to the total capital costs of the section, including splicing costs. In addition, PGE will pay PGD \$1,000 annually for fiber maintenance. The maintenance cost will be adjusted annually to reflect changes in the U.S. Producer Price Index<sup>2</sup>.

#### Analysis

Based upon Staff's analysis of the agreements, there appears to be no unusual or restrictive terms that will harm customers. Staff reviewed the contracts costs and agrees that PGE has met the requirements of the Commission's transfer pricing policy.

Although PGE did not use a competitive procurement process, PGE was able to avoid considerable installation costs since PGE, as part of the IRU, will only pay 25% of the cable installation costs. Without this IRU, PGE would be required to pay 100% of construction costs for a 24-fiber cable. As a result, PGE is saving approximately \$71,000 by entering into the IRU instead of installing its own fiber cable.

APPENDIX A  
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<sup>1</sup> Automatic network backup with 100% redundancy so that if there is a point of failure on the fiber ring, service continues.

<sup>2</sup> Bureau of Labor Statistics - The Producer Price Index (PPI) program measures the average change over time in the selling prices received by domestic producers for their output.

Additionally, PGD sub-contracts its fiber maintenance to a third party and PGD is only charging PGE the third party cost for the fiber maintenance. Completion of this project also allows PGE to complete an important communications link for its system operations.

Because PGE will pay PGD by offsetting its accounts receivable from PGD in accordance with Commission Order No. 03-093, PGE will not be making cash payments until the receivable from PGD (approximately \$500,000) is zeroed out.

The proposed ordering condition No. 1 provides the necessary records access to PGE's relevant books and records. Based on review of the application, Staff concludes the following:

1. Customers are not harmed by this transaction because PGE has met the requirements of the Commission's transfer pricing policy for affiliate transactions and is offsetting payments to PGD in accordance with Commission Order No. 03-093;
2. The Commission will have the necessary records access to PGE's books and records; and
3. The application involves an affiliated interest transaction that is fair and reasonable and not contrary to the public interest, with the inclusion of the proposed ordering conditions.

**PROPOSED COMMISSION MOTION:**

PGE's application to enter into an affiliated transaction with PGD, including the four recommended conditions, and waiver of OAR 860-027-0040, be approved.