ORDER NO. 04-185

ENTERED MAR 31 2004

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 1081

In the Matter of	)	
	)	ORDER
PORTLAND GENERAL ELECTRIC	)	
	)	
Consideration of Additional Direct Access Declaration Windows for 2004.	))	

DISPOSITION: STAFF'S RECOMMENDATIONS ADOPTED

At its public meeting on March 16, 2004, the Public Utility Commission of Oregon adopted Staff recommendations for Portland General Electric tariff filing deadlines, with one modification to a tariff filing date from July 30, 2004 to July 15, 2004. Staff's recommendations are attached as Appendix A and are incorporated by reference.

ORDER

IT IS ORDERED that Staff's recommendations are adopted with one modification to Portland General Electric's tariff filing date from July 30, 2004 to July 15, 2004.

Made, entered, and effective ______________________________.

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Lee Beyer
Chairman

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John Savage
Commissioner

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Ray Baum
Commissioner

A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request 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.

ITEM NO. 2

PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: March 16, 2004

REGULAR __X__ **CONSENT** _____ **EFFECTIVE DATE** __________N/A__________

DATE: March 5, 2004

TO: Lee Sparling through Jack Breen III and Ed Busch

FROM: Janet Fairchild

SUBJECT: PORTLAND GENERAL ELECTRIC: (UM 1081) Consideration of Additional Direct Access Declaration Windows for 2004.

STAFF RECOMMENDATION:

Regarding a multi-year opt-out offering, staff recommends that the Commission require PGE to file necessary tariffs by July 30, 2004 to implement a September 1 through September 30, 2004 declaration window for a five-year opt-out offering for service beginning January 1, 2005. The offering is to include a transition adjustment calculated using the same methodology used for the 2004 transition adjustment and is to exclude consideration of new resources that may be brought on line pursuant to the LC 33 Least Cost Planning proceeding.

Staff also recommends that the Commission require PGE to file tariffs by April 12, 2004 for expedited consideration at the Commission's May 4, 2004 public meeting. The purpose of the filing will be to implement a May 17 through May 24, 2004 declaration window to offer Schedule 483 eligible customers an opportunity to leave PGE's cost of service rate for a term of July 1, 2004 through December 31, 2004. This window should not be used to afford customers the ability to return to PGE's cost of service rate. Customers choosing the six-month opt-out should be subject to a Schedule 125 Part C transition adjustment. For the purposes of RVM ratemaking PGE should assume that mid-year opt-outs are indicative of a 2005 opt-out.

DISCUSSION:

The UM 1081 docket explores many direct access issues related to both Portland General Electric (PGE) and PacifiCorp. However, this memorandum addresses only what declaration windows PGE will offer in 2004 to provide customers the opportunity to opt out of the Company's cost of service (COS) rate.

Procedural History:

At a public workshop held February 5, 2004, the Commission asked PGE to submit a letter by February 13, 2004 regarding the following three options: 1) offering more than one window for the Company's five-year opt-out plan, 2) offering more than one window for its standard one-year opt-out plan, and 3) offering a multi-year option of less than a five year term. PGE complied with this request.

On February 17, 2004, Administrative Law Judge Kathryn Logan issued a memorandum soliciting comments on the PGE letter from interested parties. A deadline of February 25, 2004 was set for those comments. On that date comments were received from Weyerhaeuser Company (Weyerhaeuser), Sempra Energy Solutions (Sempra), Strategic Energy, LLC (Strategic), the Industrial Customers of Northwest Utilities (ICNU), EPCOR Merchant and Capital (US), Inc. (EPCOR), Constellation NewEnergy, Inc. (Constellation), and the Building Owners and Managers Association (BOMA).

Schedule 483, Five-Year Opt-out Window:

PGE plans to offer customers a five-year opt-out opportunity with an effective date of January 1, 2005. The company states that it is flexible as to the exact time the declaration window for this offering will be opened, but recommends that the declaration window be opened for one month to be closed no later than September 30, 2004.[1] Transition adjustment rates would be filed under Schedule 129, as in the past, and would exclude new resources to be acquired pursuant to the LC 33 Least Cost Planning proceeding.

ICNU and the ESSs who commented all advocate for a 2004 opt-out option for a multi-year term so that large customers have the opportunity to avoid the consequences of PGE's planned new resource acquisitions. ICNU advocates offering Schedule 483 under the same terms and conditions as in prior years, with the transition adjustment updated using the same methodology that was used for the September 2003 window, and excluding any new resources acquisitions.

ESSs express a strong preference for multi-year options of less than a five-year service term. They assert that five-year contracts are generally unattractive to both customers and ESSs from a risk management standpoint. Instead, they support an offering under the general terms and

[1] PGE asserts that a September month-long window, as was opened in 2003, is the most appropriate timing for the five-year opt-out offering.

conditions offered in Schedule 483, but for a multi-year term less than five years. See the following discussion on opt-out windows for less than a five-year term.

Schedule 483, Opt-out Window for Less than a Five-Year Term:

PGE points out that the five-year opt-out option was originally designed in response to customer interest in permanent opt-out options. The five-year opt-out term, with a two-year notice requirement for customers who choose to return to the COS rate, is compatible with its resource acquisition planning process.

The Company opposes offering a shorter-term multi-year option for the following reasons and states that if a multi-year opt-out option of less than five years is deemed necessary, the five-year opt-out option should probably not be offered.

1. Shorter-term opt-out options, such as the three-year term proposed by some, reduces the Company's resource acquisition planning horizon.
2. In the Company's view, opt-out options with a duration of less than five years provide limited value.
3. It is unclear whether the transition adjustment cost assumptions used for the five-year opt-out option would be appropriate for a shorter opt-out option. Therefore, a revised transition adjustment calculation methodology may be needed.
4. Offering numerous multi-year options would be confusing and would diminish or eliminate the value of and interest in the five-year opt-out option.

Sempra, EPCOR and Constellation all prefer a two- or three-year opt-out term as opposed to a five-year opt-out because they believe more customers are positioned to take advantage of shorter contract terms. ESSs acknowledge PGE's resource planning concerns, but point out that the Company could require a one-year notice for customers who opted out under a two-year offering or a two-year notice for customers who opted out under a three-year offering. Sempra notes that its experience in other markets suggests that customers who opt out for two- or three-year terms generally do not return to cost of service. Therefore, PGE could make the same planning assumptions for customers who leave for two- or three-year terms that it currently makes for customers who leave for the five-year term.

Additional Windows for the One-Year Opt-out option:

PGE does not recommend offering a second declaration window this year. For a July 1, 2004 service date to be implemented, a mid-May declaration window would be required. Given the short lead time and the fact that PGE's support system is not programmed so that it can simply be "reactivated" for each new window, the Company estimates the cost of offering the additional window, using its fully implemented support system, to be between $600,000 and $800,000. PGE asserts that it will take thousands of man-hours to change the system and would require redirecting numerous resources from core operations such as direct access billing and support systems. PGE states that even with the identified resource commitments, there is a possibility that the Company would not be able to complete the work by mid-May.

As an alternative, PGE proposes using a manual “workaround” enrollment process for a limited number of customers. The Company states that it could accommodate a window for customers of at least 1 MW (about 200 accounts). Lowering the size threshold to 200 kW would allow for approximately 2,000 accounts to participate, but creates the potential to overwhelm a manual enrollment process.

An additional declaration window for a service term to commence mid-year will require an additional RVM adjustment. PGE proposes a “Part C” Schedule 125 adjustment, to be assessed only on customers that opt out of COS during the mid-year window. The adjustment would be based on the difference between the annual fixed price energy charge and a balance of year forward price curve. PGE further proposes that the window would not include the option for customers to return to the COS rate.

All comments received strongly advocate for an additional one-year opt-out declaration window to be offered this spring, with the exception of Strategic, which believes that offering an additional window is a small step in the right direction, but still falls short of the mark.

Commenters point out that market momentum created by last November’s opt-out window may be lost by next November. They support having at least two declaration windows for the annual opt-out option each year. This would mitigate the “bottleneck” created by a single annual offering.

They also note that uncertainties regarding transmission, problems getting historical usage data from PGE and confusion regarding shopping credits hampered customer choice during the November window. These issues have, at least to a degree, been resolved. Offering an additional declaration window this spring would allow interested customers and ESSs the opportunity to negotiate without having to consider these barriers.

Sempra questions whether there are benefits for other PGE customers associated with freed up resources that could be realized via an additional window and points out that until the market is mature, all participants will incur additional costs associated with each window. It encourages the

Commission not to be discouraged by the threat of additional costs associated with opening an additional spring window.

Constellation and Weyerhauser object to PGE's proposal to limit a spring offering to only customers over 1 MW. Instead they propose that a spring offering should be open at least down to customers with peak demand of 250 kW per account.

ICNU believes that offering two annual opt-out windows each year will provide a workable model for the future. ICNU further believes that the Commission should reject the 18-month option proposed by PGE for the 2004 spring window because it could confuse customers and cause additional uncertainty.[2] ICNU also objects to PGE's proposed size thresholds and instead supports the same eligibility requirements as reflected in Schedule 483.

General Comments:

BOMA does not address any of the specific offerings under consideration directly, but implies that if markets are to develop, additional opportunities have to be offered. BOMA states that "[i]ts time to try something."

Strategic comments that "the entire concept of a shopping window is so fundamentally flawed that it is inherently inconsistent with the Commission's duty to remove barriers to the development of a competitive market in Oregon." This is the view that it, along with Constellation, has held throughout the UM 1081 workshops.

Staff Assessment:

The Commission is asked to make two determinations in this matter; 1) should PGE offer a multi-year opt-out option in 2004, and 2) should PGE be required to offer a second annual opt-out option in 2004 in addition to its November annual opt-out offering.

Multi-year Options: First, staff will address multi-year opt-out options. PGE and all commentors agree that the Company should offer a multi-year offering, with a service term to begin in January 1, 2005. All agree that the offering should include a transition adjustment calculated using the same methodology used in prior years, and that the transition adjustment should not

[2] PGE's letter asks whether customers who elect the mid-year shift from COS would be required to commit to the election for 2005. Staff has confirmed with PGE that this was meant as a question and not as a proposed requirement. ICNU objects to requiring customers who participate in a spring opt-out being required to opt out for 2005.

include consideration of new resources that may be brought on line pursuant to the LC 33 Least Cost Planning proceeding.

The only point of disagreement between stakeholders is how long the term of the multi-year opt-out options should be. PGE and ICNU both support a five-year opt-out term, while the ESSs support two- or three-year terms. Staff is sympathetic to ESS concerns that the five-year opt-out term leaves many customers exposed to the market because they are only able to enter into shorter-term contracts. However, these concerns have to be weighed against PGE's planning needs and the transition adjustment implications that may result from a change to a shorter opt-out term.[3] Because there is not enough time to fully investigate the transition adjustment implications of shorter opt-out terms, staff supports a five-year offering.

Staff recommends that the Commission require PGE to file necessary tariffs by July 30, 2004 to implement a September 1 through September 30, 2004 declaration window for a five-year opt-out offering for service beginning January 1, 2005.[4] The offering is to include a transition adjustment calculated using the same methodology used for the 2004 offering and is to exclude consideration of new resources that may be brought on line pursuant to the LC 33 Least Cost Planning proceeding.

Additional Annual Opt-out Offering: All commentors seem to agree that an additional spring opt-out window is warranted. PGE does not recommend a second declaration window be offered this year. Due to cost and man-hour constraints, the Company expresses reluctance to undertake the system updates necessary to implement a window using its full support system capabilities. However, the Company believes a manual approach to providing an additional window may be workable, if the number of customers eligible for the window is limited.

Staff believes that enough customer interest has been expressed to warrant an additional 2004 opt-out window. Further, staff does not believe that participation rates are likely to be high enough to overwhelm the manual "workaround" system PGE proposes. Therefore, staff recommends that PGE be required to offer an additional opt-out window, from May 17 through May 24, 2004, to Schedule 483 eligible customers[5] wishing to leave its COS rate for a term of July 1, 2004 through December 31, 2004. This window should not be used to afford customers the ability to return to PGE's cost of service rate. Customers who avail themselves of the offering

[3] Schedule 483 allows a customer to continue on a year-to-year basis after the initial five-year options with no transition adjustment charge or credit. This policy would need to be reviewed if a shorter opt-out term were implemented.
[4] ORS 757.661 grants the Commission authority to require electric companies to make filings necessary to implement direct access.
[5] Schedule 483 eligible customers have facility capacity of at least 250 kW aggregating to at least 1 MWa.

and wish to remain off PGE's COS rate should also participate in the November annual opt-out offering. Customers choosing the six-month opt-out should be subject to a Schedule 125 Part C transition adjustment. For the purposes of RVM ratemaking, PGE should assume that mid-year opt-outs are indicative of a 2005 opt-out. Tariffs necessary to implement these requirements should be filed by April 12, 2004 for expedited consideration at the Commission's May 4, 2004 public meeting.

This opt-out window should be viewed as a transitional step to a process whereby both PGE and PacifiCorp will be required to offer semi-annual declaration windows for customers wishing to opt out of COS for a one-year term. Each utility will also be required to offer some type of multi-year option annually. These ongoing requirements will be considered in a rulemaking docket to be opened in the near future.

PROPOSED COMMISSION MOTION:

1. PGE be required to file tariffs by April 12, 2004 for expedited consideration at the Commission's May 4, 2004 public meeting, in order to implement a May 17 through May 24, 2004 declaration window to offer Schedule 483 eligible customers an opportunity to leave its COS rate for a term of July 1, 2004 through December 31, 2004. This window should not be used to afford customers the ability to return to PGE's cost of service rate. Customers choosing the six-month opt-out should be subject to a Schedule 125 Part C transition adjustment. For the purposes of RVM ratemaking, PGE should assume that mid-year opt-outs are indicative of a 2005 opt-out.

2. PGE be required to file necessary tariffs by July 30, 2004 to implement a September 1 through September 30, 2004 declaration window for a five-year opt-out offering for service beginning January 1, 2005. The offering is to include a transition adjustment calculated using the same methodology used for the 2004 offering and is to exclude consideration of new resources that may be brought on line pursuant to the LC 33 Least Cost Planning proceeding.