

ORDER NO. 04-292

ENTERED MAY 24 2004

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BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 926

In the Matter of)	
)	
PORTLAND GENERAL ELECTRIC)	ORDER
COMPANY)	
)	
Approval of Agreement Regarding Payment of)	
Residential Exchange Program Settlement)	
Benefits during BPA Fiscal Years 2007)	
through 2011.)	

DISPOSITION: BALANCE OF DEFERRAL AGREEMENT WAIVED

Late in 2003, Bonneville Power Administration (BPA), the investor-owned utilities and many public utilities supported a global settlement resolving many issues of critical importance to the residential and small farm (Residential) consumers of the investor-owned utilities. Some weeks after this global settlement failed, BPA began discussions with Puget and PacifiCorp to see if the provisions of the failed settlement that pertained specifically to the investor-owned utilities could be preserved through a new settlement. As those discussions progressed, the other investor-owned utilities, including Portland General Electric (PGE), were brought in to obtain their participation, as well.

At the Commission's Public Meeting on May 4, 2004, the Commission Staff (Staff) outlined a new proposed settlement with BPA. Staff believes that the new agreement provides benefits to PGE's Residential customers by, among other things, providing stability and certainty in subscription benefits. Staff recommended the Commission direct PGE to execute the proposed settlement with BPA. A description of the new settlement agreement and discussion of its procedural history is contained in the Staff Report, attached as Appendix A, which is incorporated by reference.

The Commission adopted Staff's recommendation. PGE should execute agreements with BPA to waive the remaining balance from the 2003 Deferral Agreement, which is roughly \$2.4 million, and amend agreements related to determining the level and administration of benefits.

ORDER

IT IS ORDERED THAT:

- 1) Portland General Electric shall execute agreements with Bonneville Power Administration to waive the remaining balance from the 2003 Deferral Agreement.
- 2) Portland General Electric shall amend agreements with Bonneville Power Administration related to determining the level of benefits and their administration.

Made, entered and effective _____.

Lee Beyer
Chairman

John Savage
Commissioner

Ray Baum
Commissioner

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.

ITEM NO. 3

PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: May 4, 2004

REGULAR X **CONSENT** _____ **EFFECTIVE DATE** _____ N/A

DATE: April 29, 2004

TO: Lee Sparling

FROM: Marc Hellman

SUBJECT: PORTLAND GENERAL ELECTRIC: (Docket No. UM 926) Approval of Agreement Regarding Payment of Residential Exchange Program Settlement Benefits During BPA Fiscal Years 2007 Through 2011.

STAFF RECOMMENDATION:

I recommend the Commission direct Portland General Electric Company (PGE) to execute agreements with the Bonneville Power Administration (BPA) to waive the remaining \$2.4 million balance from the 2003 Deferral Agreement and amend agreements related to determining the level of benefits and their administration.

DISCUSSION:

Late in 2003, BPA, the investor-owned utilities and many public utilities supported a global settlement resolving many issues of critical importance to the residential and small farm (Residential) consumers of the investor-owned utilities. (See the public meeting memo for agenda item #7, presented at the December 4, 2003, Public Meeting. This settlement is compared to the Commission-supported failed global settlement discussed at that public meeting.)

Some weeks after the global settlement failed, BPA began discussions with Puget and PacifiCorp to see if the provisions of the failed settlement that pertained specifically to the investor-owned utilities could be preserved through a new settlement. As those discussions progressed, the other investor-owned utilities were brought in to obtain their participation as well.

The settlement proposal at hand, for purposes of PGE, differs in the following key areas from the global settlement supported by the Commission:

1. Lawsuits continue---The publicly-owned utilities are not part of this settlement and are not required to dismiss current lawsuits and sign covenants not to sue regarding BPA policies and decisions regarding benefits to the investor-owned utilities' Residential consumers. There are numerous lawsuits outstanding.
2. \$75 million deferrals are eliminated---PGE is not requested to defer any current benefits for repayment in the 2007 to 2011 time period. The global settlement called for PGE to defer up to \$19.3 million annually for three years with repayment of these monies over the five-year period beginning October 1, 2006.
3. PGE is required to waive the return of the remaining \$2.4 million balance of its 2003 deferral. (This was the original \$55 million in aggregate deferral.) PGE's share of the \$55 million was roughly \$10 million of which approximately \$8 million has been used to pay PGE's SN CRAC obligation.

The proposed settlement offers the key benefit to PGE's Residential consumers of stability and certainty in benefits for the five-year period beginning October 1, 2006. BPA will use a new method to calculate how much money is provided for the benefit of the IOUs' residential and small farm consumers (such as PGE and Pacific) for the 2007-2011 period. BPA will:

- a. Use a new independent source for the market price forecast, rather than BPA selecting a number. This new method will apply for the time period October 1, 2006 through September 30, 2011. This approach removes BPA's ability to arbitrarily set the level of benefits for the Residential consumers of the investor-owned utilities, and provides reasonably comparable benefits to those made available to Residential consumers of the publicly-owned utilities.
- b. Establish a floor and cap on the annual level of benefits provided to the Residential consumers of the investor-owned utilities of \$100 and \$300 million, respectively. Using the 4-state PUC agreement¹ on allocation of benefits for the 2007 – 2011 period, this translates into roughly a floor and cap of \$40 and \$125 million per year, respectively, for Oregon's Residential consumers served by PGE, PacifiCorp and Idaho Power. The current level of benefits received by those customers is roughly \$125 million per year. The current \$125 million was set during the 2001 energy crisis, which represents a time when BPA was envisioned to be well below market, i.e., the value of the federal system was very great.

¹ The September 17, 1999, 4-state agreement regarding allocation of BPA benefits was adopted by BPA in its Record of Decision.

An additional benefit to PGE consumers is that the level of PGE's flexibility is increased in managing the flow of benefits to its Residential consumers. This is accomplished by increasing to 36 months the amount of benefits that can be held in PGE's balancing account for distribution to consumers. This allows the Commission to manage rate changes better so that greater rate stability is afforded to consumers.

Finally, PGE consumers will benefit by removing the uncertainty as to whether BPA will provide benefits in the form of power or cash. By establishing now that the benefits will be provided in cash, PGE can better plan its resource requirements and decisions.

Key Issue

The key issue is whether this settlement is beneficial for PGE Residential consumers. This settlement benefits PGE Residential consumers because it:

- Provides certainty for the minimum and maximum level of benefits available to the Residential consumers for the five-year period beginning October 1, 2006; and,
- Reduces BPA activities in the wholesale market by eliminating BPA's obligation to provide any power to the investor-owned utilities. In BPA's Power Subscription Record of Decision dated April 2000, the text reads, "BPA intends for the 2200 aMW to be comprised solely of power deliveries."

The settlement removes BPA's discretion to arbitrarily establish the level of benefits available to Residential consumers. The benefit of BPA power is measured by the difference in cost between buying BPA power and an equivalent amount of power in the open market. For example, if the price of BPA power equaled the wholesale market price of power, there is no current benefit of having BPA power. On the other hand, if BPA power were priced much lower than wholesale market alternatives, as was the case in 2001, then there are substantial benefits to having access to BPA power. The Residential consumers, for the five-year period beginning October 1, 2001, had rights to 1900 aMW of BPA power. During 2001, the wholesale price of power for a flat block power product, provided for a five-year term, was well in excess of \$50 per mWh. In fact, BPA reported prices in excess of \$100 per mWh. Assuming a market price of \$50 per mWh, and 1900 aMW, and a BPA price of a flat-block product of \$20 per mWh, the economic value of the power is $1900 \text{ aMW} * (50 - 20 \text{ \$/mWh}) * 8760 \text{ hours per year} = \500 million . Residential benefits however are not \$500 million annually. Benefits are much lower because BPA determined the wholesale market price forecast in its own rate case. The BPA-established market price is \$38 per mWh. BPA had initially set the wholesale market price at \$28.1 per mWh and only agreed to revise the price after active intervention by the PNW public utility commissions.

BPA has not yet adopted a wholesale market price forecast for the five-year period beginning October 1, 2006. As noted earlier in this memorandum, this settlement requires BPA to use independent sources to determine wholesale market prices for the purpose of establishing the level of benefits for Residential consumers. Absent the settlement, the wholesale price forecast would be established by BPA in its rate case. At a previous four-state commission meeting with BPA, Steve Wright, Administrator of BPA, relayed to the four state commissions that BPA would likely adopt a conservative (low) wholesale price forecast. If BPA used a five-year rate period, as it did in the first five years of PGE's ten-year contract, it would be difficult for the four state commissions to challenge BPA's order on this issue. This is because there is not a liquid market for five-year term power. During the global settlement discussions the parties had many discussions with power market experts and it was evident that a liquid wholesale market existed for two years, or possibly three years at most.

For the five-year period beginning October 1, 2006, PGE Residential consumers are to receive 560 aMW of federal system benefits. Assuming the independent wholesale market price forecast exceeds what BPA would have adopted otherwise through its rate case, by \$1 per mWh, benefits to PGE's Residential consumers increase by roughly \$5 million, annually. This value compares favorably to PGE's waiver of \$2.4 million in deferral monies BPA owes PGE.

There is a countervailing point that can be made regarding the merit of the settlement. A disturbing feature is that PGE's Residential consumers must "pay" for fair performance by BPA under the terms of the existing contract. The independent price forecast could be considered the best-unbiased estimate. The reason this whole approach was developed was to nullify BPA's discretion and threats to arbitrarily reduce the market price forecast from its "true" value. It should be recognized that BPA is a political agency. It may be worthwhile to immunize the Residential benefits from near term adverse political considerations.

Other Discussion

The BPA payments to PGE do not enrich PGE shareholders

PGE, PacifiCorp and Idaho Power all pass through to customers, in full, the BPA benefits. Shareholders earn no profits on the passthrough. Before the October 1, 2003 SN CRAC increase, the Oregon portion of the benefits was \$63 million for PacifiCorp-Oregon, and \$58 million for PGE.

Additional Background

Commission authorization for this proposed contract is required pursuant to ORS 757.663, which reads as follows:

In order to preserve the benefits of federal low-cost power for residential and small-farm consumers of electric utilities, the Public Utility Commission may require an electric company to enter into contracts with the Bonneville Power Administration for the purpose of securing such benefits. The contracts shall be subject to approval by the commission....

In docket UM 926, the Commission investigated the Residential consumers' access to federal system benefits and method of delivery (power or cash). As a result of the UM 926 investigation, the Commission issued Order Nos. 00-678 and 01-427, directing both PGE and PacifiCorp to enter into 10-year power purchase contracts with BPA relating to residential exchange benefits. These contracts provided PGE and PacifiCorp both cash and cost-based federal power. On October 31, 2000, PacifiCorp and PGE executed ten-year subscription settlement agreements with BPA. PacifiCorp and BPA later agreed to convert the power sale portion of the federal system benefits into cash.

PROPOSED COMMISSION MOTION:

The Commission direct Portland General Electric to execute agreements with the Bonneville Power Administration to waive the remaining \$2.4 million balance from the 2003 Deferral Agreement and amend agreements related to determining the level of benefits and their administration.

PGE UM 826