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BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UI 232

In the Matter of)	
)	ORDER
PORTLAND GENERAL ELECTRIC)	
)	
Application for Approval of Optic Fiber)	
Agreements between Portland General Electric)	
and Portland General Distribution, LLC.)	

DISPOSITION: APPLICATION APPROVED WITH CONDITIONS

On June 7, 2004, Portland General Electric Company (PGE) filed an application with the Public Utility Commission of Oregon (Commission) pursuant to ORS 757.495 and OAR 860-027-0025, requesting approval for optic fiber lease agreements with Portland General Distribution, LLC (PGD), an affiliated interest. PGE also requested a waiver under OAR 860-027-0043 because the net value of the exchange in the agreement is less than .01 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 August 3, 2004, the Commission adopted Staff's recommendation and this written order memorializes the Commission's formal decision.

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 under OAR 860-027-0043 is also approved.

Made, entered, and effective _____.

BY THE COMMISSION:

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.

ITEM NO. CA3

PUBLIC UTILITY COMMISSION OF OREGON

STAFF REPORT

PUBLIC MEETING DATE: August 3, 2004

REGULAR _____ **CONSENT** X **EFFECTIVE DATE** _____ June 1, 2004

DATE: July 26, 2004

TO: Lee Sparling through Marc Hellman and Rebecca Trujillo

FROM: Marion Anderson

SUBJECT: PORTLAND GENERAL ELECTRIC: (Docket No. UI 232) Application for approval of optic fiber agreements with Portland General Distribution, LLC.

STAFF RECOMMENDATION:

The Commission should approve Portland General Electric's (PGE) application for optic fiber agreements with Portland General Distribution (PGD), an affiliated interest, with the following conditions:

1. PGD shall provide the Commission access to all books of account, as well as all documents, data and records of PGE and PGD that pertain to transactions between the two.
2. The Commission reserves the right to review for reasonableness all financial aspects of this arrangement in any rate proceeding or earnings review under an alternative form of regulation.
3. PGE shall notify the Commission in advance of any substantive changes to the agreement, including any material changes in any cost. Any changes to the agreement terms that alter the intent and extent of activities under the agreement from those approved herein shall be submitted for approval in an application for a supplemental order (or other appropriate format) in this docket.

DISCUSSION:

PGE filed this contract on June 7, 2004, under ORS 757.495 and OAR 860-027-0025. It is noted in the agreement that PGD is doing business as Portland General Broadband. Both parties are wholly owned subsidiaries of Enron Corporation and thereby are affiliates as a consequence of ORS 757.015. Further, PGE requests a

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waiver under OAR 860-027-0043 because the net value of the exchange in the agreement is less than the .01% threshold used therein.

PGE is gaining the use of 335.2 fiber/miles from PGD and granting the use of 322.1 fiber/miles to PGD, with the potential for eventual purchases.

The following issues were investigated:

- ◆ Scope of the Agreement
- ◆ Transfer Pricing
- ◆ Determination of Public Interest Compliance
- ◆ Records Availability, Audit Provisions and Reporting Requirements

Scope of the Agreement: The PGD use extension is a reverse service transaction that makes use of dark fiber not currently used and useful. This memorandum considers the forward use extension from PGD. Both extensions confer indefeasible (non-voidable) rights.

Transfer Pricing and Determination of Public Interest Compliance: The exchange of usage, using cost of new construction, provides a net benefit to PGE of approximately \$6,000. There are also additional quantifiable benefits to PGE that are detailed in the application and staff's review confirms the assertions.

Records Availability, Audit Provisions and Reporting Requirements: Condition No. 1 provides necessary access to records.

Based on the review of this application, Staff concludes the following:

1. Transfer pricing is acceptable.
2. Customers are not harmed by these transactions.
3. Necessary records are available.
4. The transactions are not contrary to the public interest with the recommended conditions.

PROPOSED COMMISSION MOTION:

Portland General Electric's exchange of indefeasible rights of use for optic fibers with Portland General Distribution, LLC be approved, subject to the aforementioned conditions, effective June 1, 2004.

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