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BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UE 166

In the Matter of)	
)	
PORTLAND GENERAL ELECTRIC)	ORDER
)	
Request for a waiver of OAR 860-021-0200(3)(a))	
which permits a customer to qualify as a guarantor)	
for another applicant or customer by establishing)	
credit under OAR 860-021-0200(1).)	

DISPOSITION: WAIVER GRANTED; TARIFF SHEETS EFFECTIVE

On July 6, 2004, Portland General Electric (PGE) filed an application with the Public Utility Commission of Oregon (Commission) for approval of a waiver of the requirement in OAR 860-021-0200(3)(a) that utilizes the provisions of OAR 860-021-0200(1) for the purpose of defining a customer eligible to be a guarantor. PGE also filed for approval to adopt the Fourth Revision of Sheet No. D-9 in Advice No. 04-13 that reflects the proposed waiver, to take effect on August 18, 2004.

PGE argues that an unintended consequence of the modification of OAR 860-021-0200(1) by AR 452 was that there is no longer the requirement that a guarantor be a customer of the utility for the preceding 12 months without late payment. PGE's position is that a customer should not be eligible to qualify as a guarantor under a surety agreement without first having established 12 months of continuous utility service with the same utility without a late payment.

At its public meeting on August 17, 2004, the Commission adopted Staff's recommendation to allow the waiver of the requirement in OAR 860-021-0200(3)(a) that utilizes the provisions of OAR 860-021-0200(1) for the purpose of defining a customer eligible to be a guarantor. Staff's recommendation is attached as Appendix A, and is incorporated by reference.

ORDER

IT IS ORDERED that:

1. Portland General Electric's petition in Advice No. 04-13 is granted.
2. Portland General Electric's application to waive statutory notice is approved.
3. The proposed tariff is allowed to take effect on August 18, 2004.

Made, entered and effective _____.

BY THE COMMISSION:

Becky 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. CA5

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: August 17, 2004**

REGULAR _____ CONSENT X EFFECTIVE DATE August 18, 2004

DATE: July 29, 2004

TO: Lee Sparling through Ed Busch and Bonnie Tatom

FROM: Deborah Garcia

SUBJECT: PORTLAND GENERAL ELECTRIC: (Docket No. UE 166/Advice No. 04-13) Requests a waiver of OAR 860-021-0200(3)(a) which permits a customer to qualify as a guarantor for another applicant or customer by establishing credit under OAR 860-021-0200(1).

STAFF RECOMMENDATION:

I recommend the Commission approve the petition of Portland General Electric for a waiver of the requirement in OAR 860-021-0200(3)(a) that utilizes the provisions of OAR 860-021-0200(1) for defining a customer eligible to be a guarantor. I also recommend the Commission grant the request to waive the statutory notice requirement and allow the tariff sheet filed in this Advice to take effect on August 18, 2004.

DISCUSSION:

Portland General Electric (PGE or Company) first filed Advice 04-13 on July 6, 2004. The filing was amended at Staff's request on July 20, 2004 to remove unrelated tariff changes, and further amended July 26, 2004 to "set forth the rule upon which the petition is based", as required under OAR 860-013-0020(2)¹.

The final filing consists of two parts. The first part, filed under the provision of OAR 860-021-0005² and docketed as UE 166, is a petition for a waiver of the language in OAR 860-021-0200(3)(a)³ which permits a customer to qualify as a guarantor for

¹ OAR 860-013-0020(2) defines & sets out the filing requirements of a petition.

² OAR 860-021-0005 says in part, "Upon application by a utility, the Commission may relieve the utility of any obligations under these rules."

³ OAR 860-021-0200(3)(a) provides one more option for an applicant who cannot meet the requirements of OAR 860-021-0200(1) to establish credit and does not have the means to pay a deposit. Under this rule, an applicant may present the utility with a signed surety agreement from a responsible party (guarantor) in lieu of paying a deposit. The surety agreement is for an amount equal to the deposit the applicant is obliged to pay and continues in effect until the applicant establishes good credit. This allows an individual, such as a recently relocated domestic abuse

another applicant or customer merely by establishing credit under OAR 860-021-0200(1)⁴. The specific language for which the Company seeks a waiver is the following:

For purposes of Section (3) of this rule, a responsible party is a customer with the same utility who meets one of the qualifying conditions outlined in Section (2) of this rule.

During the Commission's last triennial rule review, Docket AR 452 was opened to investigate proposed changes to Division 021 of the Commission's administrative rules. OAR 860-021-0200(1) and (3) were among the rules changed in that docket's final order No. 03-550.

As noted in Commission Order Nos. 04-243 and 04-323, wherein NW Natural and PacifiCorp dba Pacific Power and Light were granted waivers of the same requirement PGE has requested in this filing, the qualification requirements for a guarantor were unintentionally reduced in AR 452:

...the language of OAR 860-021-0200(3)(a) does not appear to reflect the intent of the parties to AR 452 and allows unintended consequences that increase the risk to other customers (Order No. 04-243, Appendix A, page 4; and Order No. 04-323, Appendix A, page 6.)

Before the changes in the rules that were adopted by Order No. 03-550, an applicant could secure service by providing a written surety agreement equal to two-months average service, signed by a responsible party, who was defined as having "received service continuously from the same utility for the preceding 12-month period without late payment" (Order No. 03-550, Appendix A, page 4 of 32.) Currently, the rule does not require a guarantor to have an established credit history with the Company.

In its filing, PGE asserts that OAR 860-021-0200(3)(a), as stated, presents the unintended risk of increased uncollectibles. Staff agrees with this assessment.⁵

In this filing, the Company also seeks Commission approval to adopt the Fourth Revision of Sheet No. D-9 that reflects the proposed waiver.

It is my understanding that a request that the Commission open a rulemaking related to the issues raised in this filing may be made at a subsequent public meeting. The

victim, to secure essential utility service. The rule defines a guarantor as a current customer that meets any one of the requirements in OAR 860-021-0200(1).

⁴ OAR 860-021-0200(1) outlines how an applicant may establish credit to receive utility service without paying a surety deposit. Section (1)(a) is: received 12 months of continuous utility service during the preceding 24 months that the utility can verify and the applicant or customer voluntarily terminated service.

⁵ See Order No. 04-243, Appendix A, page 4 and Order No. 04-323, Appendix A, page 6.

rulemaking would also address other related issues that were raised in comments by a party to AR 479⁶. If the rulemaking proceeds, it is likely that the waiver requested in this filing will no longer be necessary and could be withdrawn at that time.

I agree that the language of OAR 860-021-0200(3)(a) does not appear to reflect the intent of the parties to AR 452 and allows unintended consequences that increase the risk to other customers. If the utility must take a surety agreement for one or more applicants from an individual with no credit history with the company, a likely outcome is an increase in the number of PGE's customer accounts that it is not able to collect. This outcome would unfavorably affect the rates of other customers, and could adversely affect the Company. Generally, Staff does not recommend and the Commission does not favor exempting an entity from compliance with any administrative rule. However, the Commission has on occasion, found it to be in the public interest to grant such a request. Additionally, as noted above, the Commission has recently approved similar requests for a waiver of the same rule made by NW Natural by Order No. 04-243, and PacifiCorp by Order No. 04-323. I am persuaded that PGE's request for a waiver is in the public interest and recommend the Commission approve it.

PROPOSED COMMISSION MOTION:

PGE's petition in Advice 04-13 be granted, the Application to waive Statutory Notice be approved, and the proposed tariff be allowed to take effect with service on or after August 18, 2004.

PGE Advice No. 04-13

⁶ AR 479 was a rulemaking to clarify rules regarding establishment of credit that were modified during the AR 452 docket.