

**BEFORE THE PUBLIC UTILITY COMMISSION**

**OF OREGON**

UP 224

In the Matter of	)	
	)	ORDER
PORTLAND GENERAL ELECTRIC	)	
	)	
Application for Approval to Lease Property	)	
to Siltronic Corporation.	)	

**DISPOSITION: APPLICATION APPROVED WITH CONDITIONS**

On May 17, 2005, the Public Utility Commission of Oregon (Commission) received an application from Portland General Electric Company (PGE), pursuant to ORS 757.480 and OAR 860-027-0025, requesting approval of the lease of a substation property, for a period of five years, to Siltronic Corporation (Siltronic). At the end of the five-year term, Siltronic will have the option of extending the lease for another five-year period. PGE has a pending Substation Operating Lease Agreement with Siltronic to lease the property.

**DISCUSSION**

PGE currently owns a substation that exclusively serves the Siltronic wafer manufacturing facility located in Portland, Oregon. PGE proposes to lease the substation property to Siltronic. The lease is based on PGE's forecasted costs associated with the substation, and PGE will receive revenue of approximately \$1.6 million over the five-year term. The five-year term of the lease is fixed, with no ability on Siltronic's part to terminate early absent PGE's default. Siltronic has the option at the end of the initial five-year period to extend the lease for an additional five-year period.

In addition to leasing the substation from PGE, Siltronic will move from PGE's primary voltage Schedule 83 to the subtransmission voltage charges under Schedule 83. This move will result in an approximate reduction in PGE's tariff revenue of about \$575,000. PGE estimates that the tariff revenue is partially offset by the first-year lease revenue from Siltronic of about \$340,000. PGE also estimates that operation and maintenance (O&M) savings will mitigate a portion of the lost tariff revenue. The first year incremental revenue shortfall would be about (\$575,000-\$340,000), or \$235,000. However, the lease payments decline over time so the incremental revenue shortfall will increase all else being equal. PGE proposes to spread the incremental revenue shortfall to remaining customers.

At the August 16, 2005 Public Meeting, the Commission Staff (Staff) recommended the Commission approve the lease with five conditions. Staff's report is attached as Appendix A and incorporated by reference. PGE did not object to the first four conditions, but opposed the fifth, which would require PGE :

to hold other customers harmless during the term of the contract and any extension, should the revenues received from Siltronic under this agreement be less than those that would be received absent approval. PGE should also be directed to impute such revenues for purposes of any earnings review and other regulatory filings before the Commission.

ORS 757.480 requires that a public utility must obtain the Commission's approval before selling, leasing, assigning or otherwise disposing of property with a value exceeding \$100,000 that is necessary or useful in the performance of the public utility's duties to the public. This Commission applies a "no harm" standard to such transactions. *See, e.g.*, Order No. 01-778 at 10.

After discussion, the Commission adopted Staff's recommendation, with one modification. On the advice of counsel, the Commission agreed that PGE should be allowed to address the benefit of this lease to customers during its next general rate proceeding, and attempt to quantify such economic value to offset any revenue shortfall resulting from the lease in order to establish that customers are held harmless.

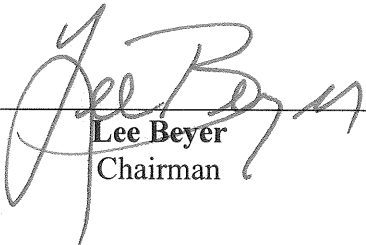
### **ORDER**

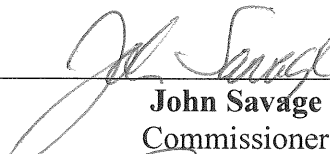
IT IS ORDERED that the application of Portland General Electric Company is approved, subject to the following conditions:

1. Portland General Electric Company shall provide the Commission access to all books of account, as well as all documents, data, and records that pertain to the lease of the property. All records surrounding the property and the transaction shall be maintained, for no less than 10 years after the transaction date, at PGE's office in Portland, Oregon, to facilitate any future audit.
2. A complete accounting shall be provided to Staff within 45 days after the consummation of the transaction. Such accounting will include full details on all transaction costs.
3. The Commission reserves the right to review, for reasonableness, all financial aspects of this transaction in any rate proceeding or alternative form of regulation.

- 4. Portland General Electric Company shall notify the Commission in advance of any substantive changes to the transaction, including lease price, extensions, or termination. Any material change shall be submitted in an application for a supplemental order in this docket.
  
- 5. Portland General Electric Company agrees to hold other customers harmless during the term of the contract and any extension, should the revenues received from Siltronic under this agreement be less than those that would be received absent approval. Portland General Electric shall impute such revenues for purposes of any earnings review and other regulatory filings before the Commission.
  
- 6. In its next general rate proceeding, Portland General Electric may present evidence about the benefits of the lease that offset some or all of the revenue shortfall and revenue imputation needed to hold customers harmless.

Made, entered, and effective           AUG 29 2005          .

  
\_\_\_\_\_  
**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 request for rehearing or reconsideration must be filed with the Commission within 60 days

ITEM NO. 2

PUBLIC UTILITY COMMISSION OF OREGON  
STAFF REPORT  
PUBLIC MEETING DATE: August 16, 2005

REGULAR  X  CONSENT \_\_\_\_\_ EFFECTIVE DATE \_\_\_\_\_ N/A \_\_\_\_\_

DATE: August 3, 2005

TO: Public Utility Commission

FROM: Bryan Conway *BAC*

THROUGH: Lee Sparling *li* and Marc Hellman *MH by BAC*

SUBJECT: PORTLAND GENERAL ELECTRIC: (Docket No. UP 224) Application for Approval to Lease Property to Siltronic Corporation

STAFF RECOMMENDATION:

The Commission should approve the property lease by Portland General Electric (PGE or Company) subject to the following conditions:

1. Portland General Electric shall provide the Commission access to all books of account, as well as documents, data, and records that pertain to the lease of the property. All records surrounding the property and the transaction shall be maintained, for no less than 10 years after the transaction date, at PGE's office in Portland, to facilitate any future audit.
2. A complete accounting shall be provided to Staff within 45 days after the consummation of the transaction. Such accounting will include full details on all transaction costs.
3. The Commission reserves the right to review, for reasonableness, all financial aspects of this transaction in any rate proceeding or alternative form of regulation.
4. PGE shall notify the Commission in advance of any substantive changes to the transaction, including lease price, extensions, or termination. Any material change shall be submitted in an application for a supplemental order in this docket.
5. PGE agrees to hold other customers harmless during the term of the contract, and any extension, should the revenues received from Siltronic under this agreement be less than those that would be received absent approval. PGE

UP 224  
August 3, 2005  
Page 2

should also be directed to impute such revenues for purposes of any earnings review and other regulatory filings before the Commission.

#### **DISCUSSION:**

Portland General Electric (PGE or Company) filed an application on May 17, 2005, pursuant to ORS 757.480 and OAR 860-027-0025. The Company requests authority to lease a substation property for a period of five years to Siltronic Corporation (Siltronic). At the end of the five-year term, Siltronic will have the option of extending the lease for another five-year period. The Company has a pending Substation Operating Lease Agreement with Siltronic to lease the property.

#### Background

PGE currently owns a substation which exclusively serves the Siltronic wafer manufacturing facility located in Portland. Siltronic is unique in that they have constructed and own the primary voltage feeders from the substation to their own facilities. PGE typically installs and maintains feeders to customers in similar circumstances.

#### Lease Details

PGE proposes to lease the substation property to Siltronic. The lease is based on PGE's forecasted costs associated with the substation, and PGE will record the lease revenue of approximately \$1.6 million over the five-year term in FERC Account 454 (Rent from Electric Property). The five-year term of the lease is fixed, with no ability on Siltronic's part to terminate early absent PGE's default. Siltronic has the option at the end of the initial five-year period to extend the lease for an additional five-year period.

In addition to leasing the substation from PGE, Siltronic will move from PGE's primary voltage Schedule 83 to the subtransmission voltage charges under Schedule 83. This move will result in an approximate reduction in PGE's tariff revenue of about \$575,000. PGE estimates that the tariff revenue is partially offset by the first-year lease revenue from Siltronic of about \$340,000. PGE also estimates that O&M savings will mitigate a portion of the lost tariff revenue. The first year incremental revenue shortfall would be about (\$575,000-\$340,000), or \$235,000. However, the lease payments decline over time so the incremental revenue shortfall will increase all else being equal.

PGE proposes to spread the incremental revenue shortfall to remaining customers when rates are next reset.

UP 224  
August 3, 2005  
Page 3

This proposal is a clear benefit to Siltronic with an average savings to Siltronic of approximately \$1.25 million over the five year period (assuming today's rates). However, this proposal would harm all other customers if they were to absorb this shortfall.

While Siltronic may be unique in that it has constructed the primary voltage feeders from the substation to their own facilities, the substation has been in rates and has been paid for by all remaining customers. Absent Commission approval of this lease, Siltronic could perhaps build a substation instead of leasing PGE facilities. However, no one has indicated that Siltronic has any plans to do so.

#### Standard

ORS 757.480 requires that a public utility must obtain the Commission's approval before selling, leasing, assigning or otherwise disposing of property with a value exceeding \$100,000 that is necessary or useful in the performance of the public utility's duties to the public. This Commission applies a "no harm" standard to such transactions. See OPUC Order No. 01-778 at 10 ("The remainder of the statutory scheme, those statutes governing transfer, sale, affiliated interest transactions, and contracts, either expresses no standard (for instance, ORS 757.480, .485) and has been read to require a no harm standard, or contains a "not contrary to the public interest" standard (ORS 757.490, .495).")

#### Recommendation

Staff recommends that the Commission approve the application with the condition that PGE hold other customers harmless. Whenever PGE seeks to change rates, or makes a filing with the Commission such as an earnings review, PGE should impute revenue to offset the revenue reductions caused by this transaction.

#### Alternatives

Alternatively, the Commission could approve the application but require PGE to demonstrate that customers are not harmed by the revenue requirement effects, assuming with and without approval of this lease, in its upcoming rate case. The effect of this proposal would be for PGE to bear the reduction in revenues until such time new rates go into effect, and require PGE to demonstrate that having other customers absorb the Siltronic revenue shortfall does not harm the remaining customers in its next general rate case. Staff estimates that this time period would be roughly 15 months assuming PGE files a general rate case later this year. Staff feels this recommendation

UP 224  
August 3, 2005  
Page 4

is inferior to its primary recommendation because it allows a transaction filed under (ORS 757.480) to be approved without ensuring other customers besides Siltronic are not harmed, coincident with the approval action.

Another alternative is for the Commission to deny the application because without Staff's conditions, customers are expected to be harmed.

**PROPOSED COMMISSION MOTION:**

The requested property sale be approved with Staff's recommended conditions.

UP 224 – Portland General Electric's Substation Lease to Siltronic