

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UE 180/UE 184

In the Matters of)	
)	
PORTLAND GENERAL ELECTRIC)	
COMPANY)	ORDER
)	
Request for a General Rate Revision (UE 180))	
)	
Request for a General Rate Revision relating to)	
the Port Westward Plant. (UE 184).)	

DISPOSITION: ADVICE NO. 07-15 ACCEPTED AS COMPLIANCE FILING, EFFECTIVE JUNE 15, 2007; JUNE 11, 2007, NOTICED AS THE START OF 15-DAY REVIEW PERIOD

Background

In Order No. 07-015, this Commission addressed two rate requests filed by Portland General Electric Company (PGE). First, we resolved PGE’s general rate revision seeking to increase overall revenues. Second, we approved, for later inclusion in rates, costs associated with the utility’s Port Westward generating plant.

At the time of our decision, Port Westward was anticipated to go into service on March 1, 2007. To address concerns about the possibility that the generating facility might not go into service as scheduled, we adopted a three-stage process under which PGE could incorporate Port Westward costs into rates. This process allowed a greater scrutiny of PGE’s costs, the longer the plant’s operation was delayed. We stated:

To allow flexibility for PGE, we conclude that the [revenue requirement] decisions made in this consolidated case will prevail, as long as Port Westward becomes operational within 60 days of the estimated March 1, 2007, online date. If Port Westward becomes operational on or after April 30, and before September 1, 2007, Staff and intervenors will have 15 days from the online date to determine whether there is new information that requires a re-examination of PGE’s costs in rates. If Port Westward does not become operational until after September 1, 2007, PGE must file an

entirely new rate case to add the plant to rate base when it meets the used and useful standard.

Order No. 07-015, at 50.

On March 13, 2007, PGE filed a motion to amend Order No. 07-015, changing the April 30 date to May 2 to comply with its contract with the company responsible for constructing Port Westward. The company's request did not address the process that should be employed if the plant went into service after May 2, 2007. We granted the motion and amended Order No. 07-015 by adding ordering language stating: "If Port Westward becomes operational on or after May 2, 2007, and before September 1, 2007, Staff and intervenors will have 15 days from the online date to determine whether there is new information that requires a re-examination of PGE's costs in rates."

Order No. 07-122 at 4.

Advice No. 07-15

On June 12, 2007, PGE submitted Advice No. 07-15, seeking to incorporate Port Westward cost in rates, effective June 15, 2007. PGE included, with its filing, an attestation by Vice President, Stephen Quennoz, that the plant was released for commercial operation on June 11, 2007.

PGE asserts that the filing is a "compliance" filing, implicitly asking the Commission to conclude that Order No. 07-015 allows PGE to file compliance tariffs anytime before September 1, 2007, to incorporate Port Westward into rates in the manner decided in Order No. 07-015. To accommodate the Commission's order that parties shall have 15 days in which to ask the Commission to reexamine PGE's costs underlying the tariffs, PGE states that the money collected from ratepayers will be voluntarily subject to refund with interest.

In an apparent response to the ambiguity in Orders No. 07-015 and 07-122 regarding Port Westward tariffs filed after May 2, 2007, but before September 1, 2007, PGE alternatively asks that, if the Commission concludes a new filing is required under ORS 757.210, that we treat the filing as such, waive the 30-day Statutory Notice and allow the tariffs to become effective on June 15, 2007, without suspension. Under this scenario, the rates are statutorily subject to refund with interest under ORS 757.215(4).

Positions of the Parties

The Commission Staff presented PGE's filing at a June 14, 2007 Public Meeting. Staff recommends that we treat Advice No. 07-15 as a compliance filing, effective June 15, 2007, subject to refund. Staff also recommends that the Commission notice June 11, 2007, as the online date and the start date of the 15-day review period during which a party to this proceeding may request a reopening of the record for a further examination of PGE costs.

The Citizens' Utility Board of Oregon (CUB) recommends we suspend Advice No. 07-15. CUB characterizes PGE's filing as an extraordinary change in the regulatory treatment of a utility's rate base. It states:

PGE's Advice Filing proposes to allow rates for Port Westward to go into effect on an interim basis, subject to refund, without any discussion of whether such action is necessary or reasonable. CUB believes that allowing new investment to be charged to ratepayers on an interim and subject to refund basis is a significant change to historical practice, and should only happen if the Commission, after thoughtful consideration, orders such action. We therefore ask the Commission to suspend PGE's Advice Filing 07-15.

CUB Letter to Commissioners, 1 (June 13, 2007).

CUB also contends that allowing the filing to go into effect subject to refund would constitute a significant change in agency practice. CUB observes that regulatory lag is a basic part of traditional regulation, causing a short period of time between when a generating asset becomes used and useful and when its costs are included in rates. For this reason, CUB explains that the filing should be suspended for at least the 15-day period to allow the parties an opportunity to review PGE's costs.

CUB also believes that the 15-day period to request a re-examination of PGE costs should begin on June 15, 2007, the date PGE planned to put the plant in rates, rather than June 11, 2007.

PGE agrees with Staff's recommendation that Advice No. 07-15 be allowed to go into effect June 15, 2007, subject to refund. Contrary to CUB's assertion, PGE contends that the company has traditionally been allowed to place a new generating asset in rates shortly after it became operational. PGE adds that, if the Commission allows the rates to take effect, customers are protected should any cost reductions be found, because the rates will be subject to refund with interest. Alternatively, if the Commission were to rule that new rates should not go into effect until either the end of the 15-day review period or a period of a new investigation, PGE would be unable to recover any justified increase in revenues from the period of delay.

Resolution

We are faced with two issues. The first is a legal question: Is PGE required to file a compliance filing or new tariff to incorporate Port Westward into rates at this time? The second is a policy matter: When, and under what process, should we make the Port Westward tariffs effective?

As to the first issue, we begin with a discussion of the two types of filing identified here. ORS 757.210 governs the filing of new tariffs to initiate a change in rates. Any person may demand a hearing on the reasonableness of the rate change within sixty days of the filing. ORS 757.210(1)(a). This Commission may also order the suspension of the filing pending an investigation pursuant to ORS 757.215(1). If the Commission is required to hold a hearing on the rates, but does not order a suspension thereof, any increased revenue collected by the utility is subject to refund with interest. ORS 757.215(4) and (6).

Compliance tariffs are not defined in statute or rule, but are a mechanism used to implement a rate change resulting from a Commission decision. Following a contested rate proceeding, the Commission usually issues an order permanently suspending the utility's original rate filing and directing the utility to file a new tariff in compliance with the order. *See, e.g.*, UE 194, Order No. 07-213. Such compliance tariffs are generally implemented without Commission action.

In this case, we expressly ordered PGE to file compliance tariffs to incorporate Port Westward costs into rates if the plant became operational before May 2, 2007. We also specifically required PGE to file a new rate case under ORS 757.210, if the plant came on-line after September 1, 2007. Our prior orders, however, did not clearly articulate the type of filing PGE should make if the plant became operational after May 2, but before September 1, 2007.

Faced with that question now, we clarify that we intended a modified compliance process to provide PGE the ability to quickly bring Port Westward into rates, while preserving a limited opportunity to re-examine PGE's costs. Specifically, we adopted a 15-day period during which our Staff or any party could establish sufficient cause to warrant the reopening of the docket to determine whether any cost reductions to PGE's test year expenses might be used to offset, in part, costs associated with the new plant.

This modified process did not contemplate a 60-day objection period, mandated for any rate filings under ORS 757.210, during which any person can demand a hearing on whether the resulting rates are just and reasonable. Indeed, such an interpretation would effectively reduce our three-staged process to just two stages, requiring PGE to file a new rate case, if Port Westward became operational anytime after May 2, 2007. Accordingly, we conclude that Orders No. 07-015 and 07-122 require PGE to make a compliance filing to incorporate Port Westward in rates, at this time.

Turning to the policy matter, we adopt Staff's recommendation and conclude that Advice No. 07-15 should be allowed to go into effect on June 15, 2007. We have previously reviewed Port Westward and determined that the expenses related to its construction are prudent and should be included in rates. The rates should be allowed to take effect subject to refund with interest.

This decision protects ratepayers. If a party requests a re-examination of PGE's costs and offsetting cost reductions are identified, customers will be entitled to a refund, with interest, if lower rates are found to be appropriate.

We find no compelling reason to mandate a 15-day waiting period before the Port Westward tariffs can take effect. If we were to rule that new rates should not go into effect until the end of the 15-day review period, PGE would be unable to recover any justified increase in revenues during the delay.

We do not share CUB's belief that this decision will establish a new precedent allowing a new generating asset to be placed into rates on an interim basis. This order simply implements the specific process, established in Order No. 07-015, for PGE to incorporate Port Westward in rates. Moreover, this filing does not seek to add to rates costs of a generating asset that has not been previously examined by the parties and this Commission. To the contrary, we conducted a full rate investigation on Port Westward and established expenses that we deemed to be prudent and subject to recovery. For this reason, our action here today does not amount to the approval of interim rates under ORS 757.215(5).

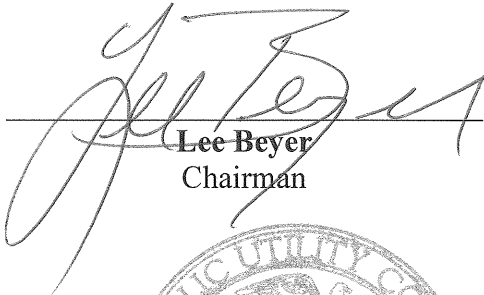
We emphasize that our decision does not foreclose a further review of PGE's costs. As explained above, Staff and intervenors will have 15 days to seek a reexamination of PGE's test year expenses. We adopt Staff's recommendation to declare June 11, 2007 as the online date and start date of the 15-day review period. The attestation filed by PGE's Vice President Quennoz states the plant became operational on that date, thus triggering the 15-day period adopted in Order No. 07-015. Accordingly, Staff and intervenors have until the close of business on June 26, 2007, to submit a motion seeking a reopening of this docket for the re-examination of PGE's costs in light of changes since Order No. 07-015 was issued. The motion need not include an evidentiary showing, but should identify specific costs that have changed from the test year expenses and include an estimate of the cost impact. PGE, Staff, and other parties will have until July 11, 2007 to file a reply to any motion. If Staff or an intervenor can establish that good cause exists for a reexamination of PGE's test year expenses, we will reopen this docket and conduct further proceedings to allow a thorough and complete review of PGE's expenses and, if warranted, adjust rates accordingly.

ORDER

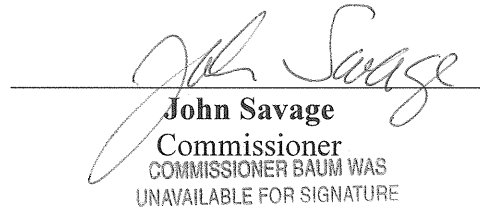
IT IS ORDERED that:

1. Advice No. 07-15 is allowed to go into effect on June 15, 2007, subject to refund with interest.
2. June 11, 2007, is noticed as the on-line date and start date of the 15-day review period established in Order No. 07-015, and clarified above.

Made, entered, and effective JUN 14 2007.



Lee Beyer
Chairman



John Savage
Commissioner
COMMISSIONER BAUM WAS
UNAVAILABLE FOR SIGNATURE

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 by filing a petition for review with the Court of Appeals in compliance with ORS 183.480-183.484.