

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UM 1367

In the Matter of	)	
	)	
RON AND SHIRLEE EVANS,	)	ORDER
CUSTOMER-GENERATORS	)	
	)	
Petition to Waive Net Metering Rule	)	
OAR 860-039-0060 and Special Condition	)	
No. 3, Pacific Power Schedule 135.	)	

**DISPOSITION: PETITION GRANTED**

On February 26, 2008, customer-generators, Ron and Shirlee Evans (Petitioners), filed a petition with the Public Utility Commission of Oregon (Commission), requesting the Commission waive the filing requirements of OAR 860-039-0060 and, as a result of the waiver, determine that Special Condition No. 3, Pacific Power Schedule 135 (Net Metering Service) does not apply to the Petitioners.

The Commission issued Order No. 07-319 on July 24, 2007, adopting rules related to net metering (that went into effect on July 27, 2007). OAR 860-039-0060 addresses provisions for “excess energy”—that is, energy generated by the customer’s net metering system in excess of the customer’s annual energy usage. A description of the filing and its procedural history is contained in the Staff Report, attached as Appendix A, and incorporated by reference.

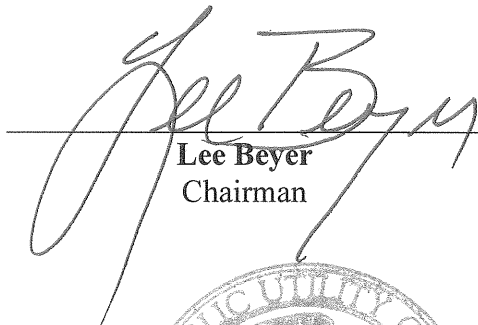
At its Public Meeting on April 8, 2008, the Commission adopted Staff’s recommendation, and approved Petitioners’ requests.

**ORDER**

IT IS ORDERED that:

1. Customer-generators Ron and Shirlee Evans' petition for waiver of the filing requirements in OAR 860-039-0060, is granted.
2. In conjunction with the waiver of the rule, related Special Condition No. 3, Pacific Power Schedule 135 (Net Metering Service), does not apply to petitioners, Ron and Shirlee Evans.
3. Pacific Power is directed to make a payment to customer-generators Ron and Shirlee Evans annually for any remaining excess energy at Schedule 37 avoided cost rates, following the conclusion of the annual billing cycle as designated in OAR 860-039-0055(2).

Made, entered, and effective APR 11 2008.

  
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**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 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.

**PUBLIC UTILITY COMMISSION OF OREGON  
STAFF REPORT  
PUBLIC MEETING DATE: April 8, 2008**

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

DATE: April 2, 2008

TO: Public Utility Commission

FROM: Lisa Schwartz <sup>EB for</sup>

THROUGH: Lee Sparling <sup>lis</sup> and Ed Busch <sup>EB</sup>

SUBJECT: OREGON PUBLIC UTILITY COMMISSION STAFF: (Docket No. UM 1367) Petition to waive OAR 860-039-0060 and Special Condition No. 3, Pacific Power Schedule 135 (Net Metering Service).

**STAFF RECOMMENDATION:**

I recommend the Commission, for good cause shown, grant the petition by customer-generators Ron and Shirlee Evans to waive OAR 860-039-0060 and, as a result of the waiver of the rule, determine that Special Condition No. 3, Pacific Power Schedule 135 (Net Metering Service), does not apply to the petitioners. I also recommend the Commission direct PacifiCorp to make a payment to the customer-generator annually for any remaining excess energy at Schedule 37 avoided cost rates, following the conclusion of the annual billing cycle as designated in OAR 860-039-0055(2).

**DISCUSSION:**

The Commission issued Order No. 07-319 on July 24, 2007, adopting rules related to net metering.<sup>1</sup> Among the rules, OAR 860-039-0060 addresses provisions for "excess energy" – that is, energy generated by the customer's net metering system in excess of the customer's annual energy usage.

On February 26, 2008, the Commission received a petition from customer-generators Ron and Shirlee Evans to waive OAR 860-039-0060. The petition also requests a related waiver of Special Condition No. 3, Pacific Power Schedule 135. The petitioners make two arguments in support of their request:

<sup>1</sup> The rules went into effect on July 27, 2007. Prior to this time, net metering provisions consistent with ORS 757.300 were adopted in Commission-approved tariffs.

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1. The customer-generator's net metering contract with Pacific Power precedes the net metering rule on excess energy. That contract provides in part, "Any positive credit on the account shall be carried forward to following billing periods and apply towards any balance owed to PacifiCorp. Customer may request payment of an outstanding positive credit. Such payment will not be automatic, but will require a request for each payment."
2. The excess energy rule encourages customer-generators to increase their electricity consumption or risk loss of their capital investment in the net metering facility, thereby conflicting with the purpose of the Energy Trust of Oregon – to fund energy conservation and renewable energy programs.<sup>2</sup>

*Net Metering Billing Period and Excess Energy Credit*

ORS 757.300(3) requires the utility to bill the customer-generator only for the net energy consumed during the billing period — the difference between the energy the customer consumes and the energy produced by the net metering system. At the end of the monthly billing period, the utility may credit the customer-generator for the excess energy at the avoided cost determined by the Commission. See ORS 757.300(3)(c).

This was the prior practice for Pacific Power and Portland General Electric under Commission-approved net metering tariffs.<sup>3</sup> The utility did not carry forward the excess energy (in kilowatt-hours) to future billing months. Thus, credit was provided for the energy only — not for any benefits of customer-sited generation to the distribution and transmission system.

Among the net metering rules adopted by the Commission in July 2007 was a change to an annual billing period, consistent with ORS 757.300(3)(c) and (d). Excess energy generated by a customer within a billing month is applied to subsequent monthly bills as a kilowatt-hour credit until the end of the annual billing period. See OAR 860-039-0055.

Thus, the utility applies the net metering credit at full retail rates for all charges that use kilowatt-hours as the billing unit.<sup>4</sup> An annual billing period better accommodates the seasonal variations in output of intermittent resources such as solar and wind. Customer-generators are better off under the recently adopted rules unless they significantly oversize their net metering system relative to their annual energy use.

<sup>2</sup> The Energy Trust provided a subsidy for the customer-generator's net metering facility.

<sup>3</sup> Including Pacific Power Schedule 135.

<sup>4</sup> For residential customers, that includes energy, distribution and transmission charges.

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Consistent with ORS 757.300(3)(d), OAR 860-039-0060 requires the utility to grant excess energy credits — kilowatt-hour credits remaining at the end of the annual billing period — to a low-income energy assistance program in a manner approved by the Commission.

*Waiver of OAR 860-039-0060 and Special Condition No. 3, Pacific Power Schedule 135*

OAR 860-039-0005(2) allows a person to request the Commission waive any of the net metering rules for good cause shown. Staff recommends the Commission grant a waiver of OAR 860-039-0060 in this case because the customer installed the net metering facility prior to the adoption of the Commission's rules and the net metering facility produces more energy than the customer uses on an annual basis. Thus, the customer prefers the prior billing method for net metering, based on a monthly billing period with credit for excess energy produced during the billing month at avoided cost rates.<sup>5</sup>

Consistent with OAR 860-039-0060, Special Condition No. 3 in Pacific Power Schedule 135 states, "Any remaining unused kilowatt-hour credit accumulated through March 31 each year shall be transferred to the Company's low-income assistance program at the applicable average annual avoided cost tariff rate in Schedule 37." Staff also recommends the Commission determine, consistent with the waiver of the rule, that this special condition not apply to the petitioners.

The customer-generators assumed in their petition that if Special Condition No. 3 is waived, they would receive credit for excess energy at the full retail rate described in Special Condition No. 2 of Schedule 135. Staff clarified with the customer-generators that, if the Commission grants the requested waiver of the rule and makes the determination that Special Condition No. 3 does not apply to the petitioners, PacifiCorp will bill the customer-generator for the net energy consumed during the monthly billing period. The remaining excess energy will be carried forward for payment at the Schedule 37 avoided cost rate, which is the rate the Commission previously approved for excess energy. The customer-generators find this acceptable.

The Commission should direct PacifiCorp to make a payment to the customer-generator annually for any remaining excess energy at Schedule 37 avoided cost rates, following the conclusion of the annual billing cycle as designated in OAR 860-039-0055(2).

PacifiCorp does not oppose these requests.

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<sup>5</sup> Pacific Power Schedule 37 contains the company's avoided cost rates.

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**PROPOSED COMMISSION MOTION:**

- 1) For the reasons discussed in this memorandum, the petition by customer-generators Ron and Shirlee Evans to waive OAR 860-039-0060 be granted for good cause shown,
- 2) in conjunction with the waiver of the rule, related Special Condition No. 3, Pacific Power Schedule 135 (Net Metering Service), not apply to the petitioners, and
- 3) PacifiCorp be directed to make a payment to the customer-generator annually for any remaining excess energy at Schedule 37 avoided cost rates, following the conclusion of the annual billing cycle as designated in OAR 860-039-0055(2).

UM 1367 memo.doc