

ORDER NO. 13 099

ENTERED MAR 26 2013

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UF 4277

In the Matter of

PORTLAND GENERAL ELECTRIC  
COMPANY,

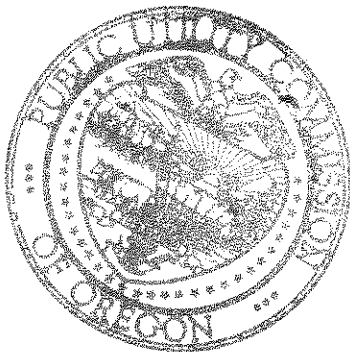
ORDER

Application Requesting Authority to enter into  
a Reimbursement Agreement with The Bank  
of Nova Scotia for the Purpose of Issuing  
Letters of Credit.

**DISPOSITION: STAFF'S RECOMMENDATION ADOPTED**

At its public meeting on March 26, 2013, the Public Utility Commission of Oregon adopted Staff's recommendation in this matter. The Staff Report with the recommendation is attached as Appendix A.

BY THE COMMISSION:



*Becky L. Beier*

**Becky L. Beier**  
Commission Secretary

A party may request rehearing or reconsideration of this order under 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 860-001-0720. A copy of the request must also be served on each party to the proceedings as provided in OAR 860-001-0180(2). A party may appeal this order by filing a petition for review with the Court of Appeals in compliance with ORS 183.480 through 183.484.

PUBLIC UTILITY COMMISSION OF OREGON  
STAFF REPORT  
PUBLIC MEETING DATE: March 26, 2013

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

DATE: March 5, 2013

TO: Public Utility Commission

FROM: Matt Muldoon *mg*

THROUGH: Jason Eisdorfer, Maury Galbraith, and Marc Hellman *ME* *A*

SUBJECT: PORTLAND GENERAL ELECTRIC: (Docket No. UF 4277) Requests authority to enter into a reimbursement agreement for issuing up to an additional \$25 million in letters of credit.

**STAFF RECOMMENDATION:**

Staff recommends the Commission approve Portland General Electric Company's (PGE or Company) application subject to the following conditions and reporting requirements:<sup>1</sup>

1. Sum of the amount of Letters of Credit (LC) issued under the Application and Agreement for Irrevocable Standby Letters of Credit (LC Agreement) and referenced under the Reimbursement Agreement with the Bank of Nova Scotia (Bank) shall not exceed \$25 million at any one time.
2. Authority for requesting the Bank to issue a Letter of Credit under the LC Agreement, to renew an LC, and to extend the expiry date of the LC Agreement and the Reimbursement Agreement will terminate on the date site restoration is completed for the Biglow generating plant, or the Port Westward generating plant, whichever is later.
3. The annual fee for issuing and maintaining LCs will not exceed 0.80 percent of draw-able amount.
4. Authority for requesting the Bank to issue any LC under the LC Agreement, renewing or amending any LC, and extending the expiry date of the LC Agreement and the Reimbursement Agreement will terminate if the total aggregate annualized fees and costs for such action, inclusive of attorney fees for reviewing, drafting or

<sup>1</sup> The Company has told Staff that it agrees to Staff's proposed conditions and reporting requirements.

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negotiating a renewal, amendment or extension of any LC, the LC Agreement, or the Reimbursement Agreement, processing fees and all other administrative expenses, would exceed the total aggregate annualize fees and costs for a similar action under PGE's most expensive outstanding revolving credit facility.

5. No upfront fees payable to the Bank to enter into the LC Agreement and the Reimbursement Agreement are authorized.<sup>2</sup>
6. Interest on the amount payable by the Company on demand to the Bank as a result of any draw under any LC will not exceed the Bank's prime lending rate plus two percent annually.
7. PGE will file a copy of the executed Reimbursement Agreement and the executed LC Agreement with the Commission within 30 calendar days after closure, itemizing all fees, and expenses.
8. The Company will report on LC activity within its consolidated annual reporting on credit facilities.
9. The Commission reserves judgment on the reasonableness for ratemaking purposes of the Company's capital costs, capital structure, and commissions and expenses incurred for security issuances.

#### DISCUSSION:

On February 22, 2013, PGE filed an application (Application) under ORS 757.410(1) and OAR 860-027-0030 requesting authorization to enter into a Reimbursement Agreement with the Bank of Nova Scotia (Bank). The Reimbursement Agreement is associated with PGE's Application and Agreement for Standby Letters of Credit, also entered into by PGE and Bank (LC Agreement). Under the LC Agreement PGE may ask the Bank to issue letters of credit on PGE's behalf in an aggregate amount not to exceed \$25 million. Under the Reimbursement Agreement, PGE will be obligated to reimburse the Bank for any draw on the LCs and for related Bank expenses.<sup>3</sup>

PGE states that the LCs are required by the Oregon Department of Energy (ODOE) to provide financial assurance for site restoration at Biglow Canyon and Port Westward.

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<sup>2</sup> PGE indicates on page 6 of its application that no upfront fees are required.

<sup>3</sup> PGE does not ask for authority to enter into the Application and Agreement for Standby Letters of Credit. PGE asks for authority to enter into the Reimbursement Agreement under which PGE is obligated to repay the Bank of Nova Scotia up to \$25 million plus expenses.

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PGE states that the LCs must be in place until the Biglow Canyon and Port Westward sites are restored, which would occur after the plants are retired and decommissioned.

PGE is currently providing financial assurance to the ODOE through LCs issued under the Company's existing revolving credit facilities. PGE proposes to replace the LCs issued under its existing credit facilities with LC's issued under the LC Agreement and Reimbursement Agreement because they will be less costly.<sup>4</sup>

This new authority requested will supplement PGE's existing \$700 million total aggregate revolving credit facilities as shown below:

|  |   |
|--|---|
| Order No. 11-105   | \$300 million (Docket No. UF 4268)        |
| <u>Order No. 12-395</u>                                  | <u>\$400 million (Docket No. UF 4272)</u> |
| \$700 million <i>plus \$25 million restricted to LCs</i> |   |

#### **Commission Jurisdiction:**

ORS 757.415(3) provides in relevant part that "This section and ORS 757.410 apply to demand notes..." ORS 757.410(1) provides that "[a]ll stocks and bonds, notes or other evidences of indebtedness, and any security of a public utility shall be void when issued . . . [w]ithout an order of the Public Utility Commission authorizing the same then in effect[.]" The Reimbursement Agreement requires PGE to pay the Bank on demand an amount equal to the amount paid by the Bank under a draw under any LC issued under the LC Agreement. Such demand obligation is covered under ORS 757.415(3) and hence under ORS 757.410(1).

Granting the Company authority to reimburse the Bank for any draw down of the \$25 million unsecured LC does not relieve the Company of the requirement to show in each applicable subsequent rate case that obtaining LCs under the LC Agreement was more cost effective than obtaining LCs under its most expensive outstanding credit facility.

#### **Maximum Borrowing:**

The maximum LC's issued under the Reimbursement Agreement will not exceed \$25 million in aggregate at any one time. Thus, the maximum amount available to be drawn by ODOE will never exceed \$25 million.

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<sup>4</sup> See UF 4277 Application of Portland General Electric 8.

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**Consistent with Federal Energy Regulatory Commission (FERC) Regulation:**

The FERC issued a letter-order on December 28, 2011 authorizing PGE to issue debt in an aggregate amount not to exceed \$700 million between February 7, 2012, and February 6, 2014, in the form of commercial paper and notes, lines of credit from financial institutions, and revolving credit facilities.<sup>5</sup>

Because Commission authorization in an order pursuant to this docket would be incremental to outstanding credit facilities, PGE can extend its aggregate borrowing authority before FERC, or work within limits approved by FERC. Therefore, the Company is not constrained by the Commission in applying the least cost, least risk LC to satisfy Oregon siting requirements.

**Use of Proceeds:**

PGE requested use of Scotia Bank to issue LCs and entering into the Reimbursement Agreement are consistent with lawful utility purposes authorized by ORS 757.415; in this case namely:

1. Construction, and retirement of generation facilities;
2. Posting and replacement of LCs and like financial guarantees; and
3. Other purposes, as may be permitted by law.

**Extensions of the Agreement:**

The LC Agreement and Reimbursement Agreement may be extended until site restorations are complete (subject to the Bank's approval), provided LCs: 1) are deployed for the specific lawful purposes described in the Company's application, 2) remain acceptable to Oregon siting and environmental authorities, and 3) cost no more than LC's issued under PGE's most expensive outstanding credit facility for like maturities or proportionally for different maturities.

**Impact on Credit Ratings:**

PGE's outstanding first mortgage bonds (FMB) are currently rated as:

**Moody's**

A3

**S&P**

A-

<sup>5</sup> FERC Docket No. ES-12-4-000. PGE provided this information in response to Staff's Data Request No. 1 in UF 4272.

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Staff anticipates no significant impact, on PGE's credit rating metrics as a result of this Reimbursement Agreement and the subsequent issuance of LC's there under.

**Expenses:**

PGE represents in its Application that the Company believes that executing the LC Agreement and Reimbursement Agreement will allow PGE to obtain the lowest cost LCs of like type and maturity for the targeted purposes described.

The Company is not required to subject the issuance of LCs to competitive bidding. However, PGE must still demonstrate in reporting and in subsequent general rate cases that fees incurred for the LCs issued by Scotia Bank reflect least cost, viable, competitive, market-informed LC issuance.

**Reporting:**

Condition 8 consolidates annual reporting, improving efficiency for both the Company and Staff, consistent with Commission efforts to streamline reporting requirements.

**Conclusion:**

Staff's review of PGE's Application finds the requested incremental authority reasonable and likely to be beneficial to ratepayers. The Company represents that funds obtained under the LC Agreement and Reimbursement Agreement will be used solely for lawful utility purposes as described herein. The Company provided additional information in a phone workshop on Thursday February 21, 2013. In its recently filed general rate case, PGE has also provided confidential work papers, indicating expected costs and benefits as PGE complies with generation facility siting requirements, without incremental harm or risk for ratepayers. The Company has reviewed and agrees with this memo.

**PROPOSED COMMISSION MOTION:**

PGE's request for authority to enter into a Reimbursement Agreement in connection with the issuance up to an additional \$25 million in letters of credit under the LC Agreement be approved, subject to conditions and reporting requirements 1-9 listed above.

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