

ORDER NO. 16 474

ENTERED DEC 07 2016

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UE 243

In the Matter of

PORTLAND GENERAL ELECTRIC  
COMPANY,

Second Amendment to Steam Sale Agreement  
with ConAgra Foods Lamb Weston, Inc.

ORDER

**DISPOSITION: STAFF'S RECOMMENDATION ADOPTED**

This order memorializes our decision, made and effective at our December 6, 2016 Regular Public Meeting, to adopt Staff's recommendation in this matter. The Staff Report with the recommendation is attached as Appendix A.

Dated this 7 day of December, 2016, at Salem, Oregon.

  
**Lisa D. Hardie**  
Chair



  
**John Savage**  
Commissioner

  
**Stephen M. Bloom**  
Commissioner

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 Circuit Court for Marion County in compliance with ORS 183.484.

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ITEM NO. CA8

**PUBLIC UTILITY COMMISSION OF OREGON  
STAFF REPORT**

**PUBLIC MEETING DATE: December 6, 2016**

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

DATE: November 28, 2016

TO: Public Utility Commission

FROM: Max St. Brown<sup>MSB</sup>

THROUGH: Jason Eisdorfer and Marc Hellman

SUBJECT: PORTLAND GENERAL ELECTRIC:  
(Docket No. UE 243/Advice No. 2016-S3) Extends the expiration date of the existing steam sale agreement between PGE and ConAgra Foods Lamb Weston, Inc. from December 31, 2016 to March 31, 2017.

**STAFF RECOMMENDATION:**

The Public Utility Commission of Oregon (Commission) should approve the application (Application) by Portland General Electric Company (PGE or Company) to extend the expiration date of its existing steam sales agreement with ConAgra Foods Lamb Weston, Inc. (ConAgra Foods Lamb Weston) from December 31, 2016 to March 31, 2017.

**DISCUSSION:**

Issue

Whether PGE's Application satisfies the applicable law, and if so, whether the Commission should approve its request to extend the expiration date of its existing steam sale agreement with ConAgra Foods Lamb Weston.

Applicable Rule or Law

ORS 757.005(1)(b)(E) exempts from regulation as a public utility the provision of heat, but not electricity, to a customer. ConAgra Foods Lamb Weston is located in the Port of Morrow, outside of PGE's electricity service territory, thus PGE's steam sales contract with ConAgra Foods Lamb Weston qualifies as the furnishing of heat, but not electricity, and therefore the service is exempt under ORS 757.005(1)(b)(E). However, pursuant to

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ORS 757.007(1), persons that are otherwise exempt from regulation under ORS 757.005(1)(b)(E) must still file with the Commission their contracts, and schedules establishing rates, for the provision of heating services. In this manner, the Commission regulates steam sales contracts pursuant to ORS 757.007. Under this statute, the Commission may suspend the effective date of the contract for an additional period of not more than 120 days in order to determine the reasonableness of the contract, taking into consideration the services being provided, the costs and risks of service, the availability and costs of alternative forms of service and other reasonable considerations, including the impact of the contract on existing customers and on the public generally. ORS 757.007(2).

### Analysis

On October 21, 2016, PGE filed its Application with the Commission for approval to extend the expiration date of its existing steam sale agreement with ConAgra Foods Lamb Weston from December 31, 2016 to March 31, 2017. In its Application, PGE states that "ConAgra is currently undergoing a corporate reorganization and has indicated that its contract team will be very busy in the next few months working on the reorganization. As a result, ConAgra has requested that the execution of its new Steam Sale Agreement be delayed and expects to be able to complete negotiation of the Steam Sale Agreement by the end of the first quarter of 2017."<sup>1</sup> In response to Staff's information requests, PGE clarified that ConAgra Foods Lamb Weston, Inc. will continue to maintain the existing steam sales contract with PGE on a forward going basis and that PGE is not aware of any circumstances that would delay, beyond March 31, 2017, the renegotiation of its steam sales contract with ConAgra Foods Lamb Weston.

Staff and PGE met in Salem on April 18, 2016, in order to discuss PGE's ideas on revising its steam sales contracts coming up for renewal. PGE indicates these changes include:

- Implementing a capacity charge to recover fixed costs;
- Splitting the variable steam charge into a Base Steam charge and Peak Steam charge; and
- Implementing a charge for excessive steam volume changes if the customer's Steam Block and control value is not operational.<sup>2</sup>

Staff notes that the PGE request is for a fairly short time period of three months at which time PGE will seek Commission approval for new effective rates.

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<sup>1</sup> UE 243 10/21/16 Supplemental Application at 1.

<sup>2</sup> UE 238 8/12/16 Supplemental Application at 1.

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Conclusion

PGE's extension request is for a fairly short period of time. Further, PGE is actively working with Staff in regards to its steam sales contracts coming up for renewal. In addition, the PGE- ConAgra Foods Lamb Weston contract was previously approved by the Commission and it is currently in effect. For these reasons, Staff does not see a need at this time to conduct an in-depth investigation into the terms and rates of the PGE- ConAgra Foods Lamb Weston contract. Staff intends to conduct a more intensive analysis of PGE's steam sales contracts, using the ORS 757.007 criteria for "reasonableness," when the Company seeks to implement permanent changes to them, including its agreement with ConAgra Foods Lamb Weston. Under these circumstances, Staff believes it is reasonable to allow PGE additional time to negotiate changes to its steam sales contracts generally, including its contract with ConAgra Foods Lamb Weston.

The Company has reviewed this memo and has stated no objections.

**PROPOSED COMMISSION MOTION:**

Approve PGE's request to extend the expiration date of its existing steam sale agreement with ConAgra Foods Lamb Weston from December 31, 2016 to March 31, 2017.

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