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**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1631

In the Matter of

ENERGY SOLUTIONS on behalf of
WEST HAYDEN ISLAND MOORAGE,

ORDER

Request of Waiver of OAR 860-039-0065(1)(c).

DISPOSITION: WAIVER OF OAR 860-039-0065(1)(c) GRANTED

This order memorializes our decision, made and effective at our November 21, 2017 Regular Public Meeting, to grant the waiver request filed by Energy Solutions on behalf of West Hayden Island Moorage Homeowners' Association (WHIMOA) with respect to OAR 860-039-0065(1)(c).

I. FACTUAL BACKGROUND

WHIMOA is a non-profit association of owners of 56 residential houseboats moored on Hayden Island. Some of the association's residential needs are served by a "flag lot" that is controlled by an entrance security gate and contains a community automobile garage and a water pumping station. The electricity needs of these three structures are provided by Portland General Electric Company (PGE). Each of these structures is separately metered. The entrance gate, which uses approximately 5,840 kWh/year and the community garage, which uses approximately 41,000 kWh/year, are connected to a single PGE feeder line. The pumping station, which has an approximate annual usage of 6,935 kWh, is located near the other structures but is connected to a different feeder line. WHIMOA's meters are billed under PGE's Schedule 32, Small Nonresidential Standard Service.

WHIMOA, via Cheston Zimmer, owner of Energy Solutions (Zimmer), had been in contact with PGE regarding a proposed solar project that would be subject to the net metering rules. At the time of WHIMOA's application on April 26, 2017, PGE's net metering application materials did not contain a question about meter aggregation. Although documentation had been exchanged, the subject of the separate feeder lines and the implications with respect to PGE's tariffs had never been directly raised and both Zimmer and WHIMOA stated that they were not aware during development of the solar project that one of the small property's three meters was served by a separate feeder line.

On August 10, 2017, Zimmer filed with the Commission a request for waiver of OAR 860-039-0065(c), which allows a public utility to decline a customer-generator's request to aggregate meters that are served by different primary feeders. Although not clearly stated in the request, at some date prior to that time, construction of a 49.69 kW solar array

had commenced. In the waiver request, Zimmer stated that WHIMOA was receiving the Energy Trust of Oregon's commercial solar incentive for the project and had paid additional costs to upgrade an existing 15 kVA PGE transformer to a 50 kVA transformer in order to install the 49.68 kW system.

WHIMOA seeks a waiver of our rules for five reasons: (1) to allow its members to receive 100 percent of the monetary value of the solar generation from the system, which was sized to reflect usage from all three meters; (2) to reduce its shared utility bill from the energy generated by all three meters; (3) because all three meters are located within close proximity, it had no basis to suspect that they were subject to the unusual circumstance of being on separate feeder lines; (4) because the meters are all assigned to the same legal entity; and (5) because it had already incurred the additional costs to upgrade the PGE transformer in order to install the 49.68 kW system.

WHIMOA states that the only alternative that would allow it to achieve its objectives using the current system design would involve rewiring the water pump meter, which is approximately 350 feet from the closest point on the other feeder. That would require digging up the parking lot, trenching, installing new conduit and wiring and relocating the transformer, which would, in the aggregate, be prohibitively expensive. WHIMOA's representative and Zimmer stated at our public meeting that they could have resized the solar project to exclude the annual usage of the pumping station meter—a relatively small portion of the overall annual usage—had they discovered the separate feeder earlier in the development of the project.

II. APPLICABLE LAW

OAR Chapter 860 Division 039 sets forth the rules for the net metering of facilities interconnecting to a public utility as required under ORS 757.300. OAR 860-039-0065 states in part, as follows:

- (1) For the purpose of measuring electricity usage under the net metering program, a public utility must, upon request from a customer-generator, aggregate for billing purposes the meter that is physically attached to the net metering facility ("designated meter") with one or more meters ("aggregated meter") in the manner set out in this rule. This rule is mandatory upon the public utility only when:

* * * * *

- (c) The designated meter and the aggregated meters are served by the same primary feeder at the time of application.

OAR 860-039-0005(2) states in part, as follows:

Upon request or its own motion, the Commission may waive any of the Division 039 rule for good cause shown. A request for waiver must be made in writing, unless otherwise allowed by the Commission.

III. DISCUSSION

In general, we expect parties to be aware of our rules and their applicability to the party's circumstances and not rely upon their own ignorance of our rules as a basis for seeking relief from the Commission. However, in assessing the circumstances of this case in order to decide whether WHIMOA has met the "good cause" standard set forth in OAR 860-039-0005(2), we take note of several elements that distinguish this situation.

First, we note that it is a rare circumstance where two feeders will be installed on the comparatively small and unified property of a common owner, particularly one supporting a residential use. Thus, absent prior notice or being prompted to raise the question about the possibility of separate feeders directly with PGE, WHIMOA would have no reason to suspect the existing installation arrangement.

Second, PGE has experienced customer-generator lack of knowledge about multiple feeders in the past. At some point after WHIMOA filed its application, PGE added language to its standard net metering guides and application forms discussing the issue and its impact on customer-generators. Such language, however, had not been provided to WHIMOA.

Finally, we note that WHIMOA had expended substantial sums in the good-faith belief that it had complied with all of the requirements of our rules and of their mutual obligations with PGE. At the same time, allowing WHIMOA to aggregate the pumping station meter does not represent a windfall to WHIMOA, as it represents a relatively small portion of the total annual electricity usage of the three meters (approximately 12 percent).

When viewed in concert, we find that these factors are sufficient to warrant our grant of the request for waiver of our rules.

We note that PGE has revised its materials for customer-generators, such that customer-generators and their contractors should now be well informed and fully on notice of the need to inquire with PGE whether separate meters to be aggregated are served by the same primary feeder. To verify this, and in order to reduce the likelihood of the occurrence of a similar situation, we will review the documents provided by PGE to its customer-generators pursuant to Division 039.

IV. ORDER


IT IS ORDERED that:

1. The request for waiver of OAR 860-039-00651(c) filed by Energy Solutions on behalf of West Hayden Island Moorage Homeowners' Association is granted;

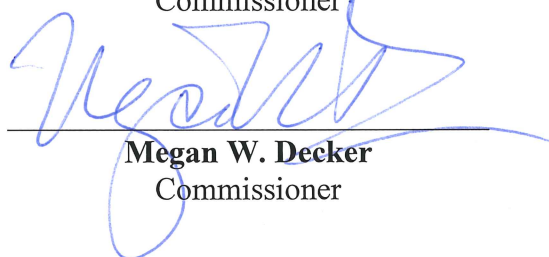
2. Within 14 days from the date of this order, Portland General Electric Company shall submit to the Commission for our review, current forms which it provides to customer-generators pursuant to OAR Chapter 860, Division 039.

Dated this 30 day of November, 2017, at Salem, Oregon.


Lisa D. Hardie
 Chair


Stephen M. Bloom
 Commissioner




Megan W. Decker
 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. 2

PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: November 21, 2017

REGULAR X CONSENT _____ EFFECTIVE DATE November 22, 2017

DATE: October 30, 2017

TO: Public Utility Commission

FROM: Paul Rossow *PR*

THROUGH: *E* Jason Eisdorfer and *JPB* JP Batmale

SUBJECT: OREGON PUBLIC UTILITY COMMISSION STAFF:
(Docket No. UM 1631) Request by Cheston Zimmer of Energy Solutions
on behalf of the Home Owners Association of West Hayden Island
Moorage for waiver from the two-feeder prohibition on aggregation for net
metering requirement pursuant to OAR 860-039-0065(1)(c).

STAFF RECOMMENDATION:

Staff recommends the Commission deny the request by Cheston Zimmer (Mr. Zimmer) to waive the requirement that the designated meter and the aggregated meters be on the same primary feeder.

DISCUSSION:

Issue

Whether the Commission should approve Mr. Zimmer's request to waive Oregon Administrative Rule requirement that the designated meter and the aggregated meters be served by the same primary feeder at the time of application.

Applicable Law

OAR 860-039-0065(1)(c) states that for the purpose of measuring electricity usage under the net metering program, a public utility must, upon request from a Customer-generator, aggregate for billing purposes the meter that is physically attached to the net metering facility ("designated meter") with one or more meters ("aggregated meter") in the manner set out in this rule. This rule is mandatory upon the public utility only when:

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- (c) The designated meter and the aggregated meters are served by the same primary feeder at the time of application.

The evaluation criterion set forth in OAR 860-039-0005(2) for waiver of Division 039 rules is "good cause shown." The Commission has discretion to determine what constitutes "good cause."

Analysis

On August 10, 2017, Mr. Zimmer of Energy Solutions filed a request for a waiver under OAR 860-039-0005(2) to waive the requirement under OAR 860-039-0065(1)(c) that the designated and aggregated meters be on the same feeder for purposes of net metering. Mr. Zimmer filed the request on behalf of the Home Owners Association of West Hayden Island Moorage (HOA or Customer-generator).

The Project

Mr. Zimmer explains that the HOA is looking to offset 100 percent of the energy usage for three Portland General Electric Company (PGE) meters that are paid from monthly HOA dues. The three meters are located on contiguous property and operate on two different feeders. The North Shore Feeder serves the designated parking structure meter and the security gate meter, which already qualifies as an aggregated meter. The South Shore Feeder serves the water pumping station meter, which is currently not eligible for meter aggregation under the same primary feeder rule.

The HOA meters are billed under Schedule 32, Small Nonresidential Standard Service and are receiving the Energy Trust of Oregon's commercial solar incentive for this solar project. The project has not yet been constructed.

OAR 860-039-0065(3) states that "A Customer-generator must give at least 60 days notice to the utility to request that additional meters be included in meter aggregation." According to both parties, there was no indication of participating in meter aggregation until after the Application for Net Metering Facility Interconnection (Application) was submitted to PGE.

Waiver request

Mr. Zimmer states in the application for waiver that "[a]s it currently stands, the output from the 49.68 kilowatt solar array will exceed the annual usage of the two qualifying meters. We are requesting a waiver of Rule 869-039-0065(c), so that the third meter (pump meter) can be aggregated for the purpose of applying excess solar generation to all three of their electricity bills."¹

¹ UM 1631 Hayden Island Aggregation of PGE meters / Division 039 waiver request.

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PGE's concerns

PGE's concerns with the application for waiver are that similarly situated customers have not been allowed to aggregate multiple meters under similar circumstances. And, PGE views the rule allowing meter aggregation as an exception to general net metering practices that require the solar PV be located behind the meter. PGE believes requiring that any aggregated meters be served by the same feeder is a reasonable limitation on the use of meter aggregation.

Staff's review

It is Staff's understanding that OAR 860-039-0065(1)(c) requires that aggregated meters be on the same primary feeder to ensure that power from a customer's generation does not flow through the distribution substation to get to the customer's load. Netting the generation and load on a single feeder reduces the need for distribution investments to serve net metering customers.² This requirement is also in PGE's net metering tariff (Schedule 203).

Staff's understanding of the HOA's reasons are that the waiver (1) will ensure that the HOA receives 100 percent of the monetary value of the solar generation; (2) will reduce the HOA's shared utility bill from the energy generated by all three meters; (3) applies to three meters on the same contiguous property; (4) applies to three meters/bills paid by the same entity; (5) is for an unusual situation in that the contiguous property is served from two different feeders; and (6) because the HOA has already paid additional costs to upgrade an existing 15 kVA PGE transformer to a 50 kVA transformer in order to install the 49.68 kilowatt system.

Staff spoke with PGE to identify possible options for meeting the HOA's sustainability goal. The only alternative to the waiver of the same primary feeder requirement using the current design of the proposed solar PV system involves rewiring the water pump meter, which is approximately 350 feet from the closest point on PGE's North Shore feeder. In order to rewire the water pump meter, a considerable amount of work would need to be done such as; digging up the parking lot, trenching, installing new conduit and wiring, and the transformer would need to be relocated. With these additional costs this option is likely to be cost prohibitive for the HOA.

Finally, Staff compared a copy of the submitted Application with an electronic version currently located on PGE's website and discovered that the submitted Application version does not specifically question the Customer-generator if they intend to participate in meter aggregation. Though the submitted application did not specifically

² See Order No. 12-471, Appendix; Staff Report re: *In the Matter of JOHN FOX Request for Waiver of OAR 860-039-0065*.

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ask if the Customer-generator intends to participate in meter aggregation, Staff believes that it is the responsibility of Customer-generators and contractors to read and understand the current requirements for aggregation in Oregon's Administrative Net Metering Rules 860-039-0005 through 860-039-0080 and PGE's net metering tariff (Schedule 203).

Staff conclusions

The Customer-generator seeks a waiver of the same primary feeder requirement to obtain maximum value from its recent investment to upgrade PGE's transformer and its planned solar PV project and to offset as much of its usage as possible to become 100 percent sustainable. Staff does not believe the Customer-generator's interest in maximizing the value of its investment or its goal to offset 100 percent of its usage are sufficient to establish good cause to waive the same primary feeder requirement.

Staff understands from PGE that it is not uncommon for small nonresidential standard service customers to be served by more than one primary feeder at the same premises. Presumably, at least some of these similarly-situated customers would also be interested in installing a solar system that is large enough to offset all their usage, not just the usage served by one of the two or more primary feeders serving their premises. Notwithstanding customers' potential interest in offsetting all generation at a single site, the Commission has decided to limit Customer-generators' ability to aggregate multiple meters and only allows aggregation of meters served by the same primary feeder. Accordingly, the fact the limitation prevents the Customer-generator from offsetting its entire load is not good cause to waive the limitation.

It is Staff's understanding that PGE has consistently declined to allow customers to aggregate meters served by different primary feeders for purposes of net metering. And, Staff is aware of only one instance in which the Commission has approved a request for waiver of the same feeder requirement. However, the circumstances underlying that request are distinguishable because the customer was a residential customer and the project was already built. According to the Staff report regarding the application for waiver, it is almost unknown for a residential customer to be served at a contiguous property by two primary feeders.³ In the case of the residential customer, there was less risk that granting the waiver would lead to additional waiver requests. Also, because the project was already built, the customer did not have the option of simply re-sizing the planned solar system so that it would only offset usage of the meter or meters served by one primary feeder.

³ Id.

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In contrast, a waiver in this case could lead to additional waiver requests from other small nonresidential customers that would like to maximize the value of solar PV systems on premises served by more than one primary feeder. And, the solar PV system in this case has not yet been installed. The Customer-generator could install a smaller PV system to match the generation to the usage of a meter or meters served by the same primary feeder.

Staff conferred with PGE and Mr. Zimmer regarding the status of the respective project and confirmed the facts that are set forth above.

PROPOSED COMMISSION MOTION:

Deny Mr. Zimmer's request under 860-039-0005(2), to waive the requirement under OAR 860-039-0065(1)(c) that aggregated meters be on the same feeder.

UM 1631 waiver of OAR 860-039-0065(1)(c)