

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UM 1422

In the Matter of

PORTLAND GENERAL ELECTRIC  
COMPANY,

Application for Waiver of OAR 860-038-0640,  
Compliance Filing Requirements for 2009.

ORDER

DISPOSITION: STAFF'S RECOMMENDATION ADOPTED

At its public meeting on June 1, 2021, 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:



A handwritten signature in blue ink, appearing to read "Nolan Moser".

**Nolan Moser**  
Chief Administrative Law Judge

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.

ITEM NO. CA2

**PUBLIC UTILITY COMMISSION OF OREGON  
STAFF REPORT  
PUBLIC MEETING DATE: June 1, 2021**

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

**DATE:** May 24, 2021

**TO:** Public Utility Commission

**FROM:** Scott Gibbens

**THROUGH:** Bryan Conway and Caroline Moore **SIGNED**

**SUBJECT:** PORTLAND GENERAL ELECTRIC:  
(Docket No. UM 1422)  
Requests extension of 2021 filing requirement deadline for  
OAR 860-038-0640.

**STAFF RECOMMENDATION:**

Approve Portland General Electric's (PGE or Company) request to waive the requirement that PGE file its Code of Conduct audit report on June 1, 2021 and extend the due date of the report from June 1, 2021 to September 1, 2021.

**DISCUSSION:**

Issue

Whether the Oregon Public Utility Commission (Commission) should approve PGE's request for an extension of the Direct Access (Code of Conduct) compliance requirement filing date set forth under OAR 860-038-0640.

Applicable Rule

PGE filed its Application for Waiver of OAR 860-038-0640 (Application) on April 28, 2021, pursuant to OAR 860-038-0001(4), which states that the Commission may waive any of the Division 038 rules for good cause shown. The Company is requesting that the Commission waive the compliance requirement contained in OAR 860-038-0640 for June 1, 2021 and allow the Company to file on or before September 1, 2021. OAR 860-038-0640 requires that electric companies file a verified report prepared by an

Docket No. UM 1422  
May 24, 2021  
Page 2

independent third party regarding the electric company's compliance with OAR 860-038-0500 through 860-038-0620 for the prior two calendar years.

OAR 860-038-0500 through 860-038-0620 contains the Commission's rules for Direct Access Code of Conduct (Code of Conduct), which was designed to protect against abuses and anticompetitive practices by electric companies in the Oregon retail electric markets. The Code of Conduct rules govern the sharing of customer information, the cross-subsidization between competitive operations and regulated operations, access to transmission and distribution facilities, joint marketing practices, and other issues.

### Analysis

#### *Background*

PGE submitted the required Code of Conduct third party compliance report by June 1 in the years 2003, 2005, 2007, and 2011.

In 2009, 2013 and 2015, PGE requested a waiver of the requirement to file a third-party review. The Commission waived PGE's 2009 Code of Conduct reporting requirement in Order No. 09-104, its 2013 Code of Conduct reporting requirement in Order No. 13-060, and the Company's 2015 Code of Conduct reporting requirement in Order No. 15-088.

In 2017 PGE filed a similar waiver as the current application requesting an extension to the June 1 deadline to October 16, 2017. The Commission approved the request for an extension in Order No. 17-150. Later in 2017 and 2019, PGE requested the option to use a report submitted by PGE's Internal Audit Department in lieu of a third-party review. In Order Nos. 17-317 and 19-167 the Commission accepted Staff's recommendation to allow the Company to waive the requirements of OAR-038-0640, with Staff noting in its recommendation, "this approach will maintain the purpose of the third-party review, reduce costs, and likely expedite the report...Staff supports this approach as it will provide a thorough review by competent analysts at a lower cost to customers."

#### *Application*

On April 28, 2021, the Company filed its request to waive the Code of Conduct reporting requirement of June 1, 2021, requesting an extension of approximately 90 days. In its Application, the Company provides the following reasons why a waiver of OAR 860-038-0640 should be granted:

1. PGE has repeatedly shown that it complies with the Code of Conduct rules as demonstrated by external third-party reviews in the calendar years of 2003, 2005, 2007, and 2011.

Docket No. UM 1422  
May 24, 2021  
Page 3

2. Due to culture of compliance and ongoing Division 38 training in even numbered years, PGE received waivers in 2009, 2013, and 2015.
3. PGE spent an extensive amount of time conducting interviews to identify an independent third-party firm to conduct the verified report.
4. PGE has retained an independent third-party and asks the Commission to allow extra time to complete the audit due to delays in retaining a firm.

#### *Summary of Staff's Analysis*

The Commission adopted June 1 as the filing deadline in Order No. 06-225 as a part of AR 475. Staff has reviewed the AR 475 record and has found no description as to why June 1 was selected. Staff concludes that the date is largely arbitrary, meant to implement a biennial filing requirement in a straight-forward manner.

In 2019, Staff found that “the Company has satisfactorily complied with the Code of Conduct” in all previous internal and external compliance reports. Staff notes that the granting of a waiver of the Code of Conduct review would not affect the Commission’s ability to request information or investigate concerns. Further, the COVID pandemic has resulted in changes, delays, and uncertainty throughout businesses in the state.

As such, Staff sees no material impact to customers or stakeholders if the Commission were to allow a one-time extension of the filing deadline by roughly three months. Staff finally notes that the waiver of the June 1 deadline in 2021, does not have any precedential nature for future filings.

#### Conclusion

Staff supports PGE’s request for an extension so that the third-party firm may complete its review with the necessary time. PGE has shown good cause for a filing date extension of its OAR-038-0640 Code of Conduct Audit reporting requirement. The Company's request will not harm ratepayers and should be approved.

#### **PROPOSED COMMISSION MOTION:**

Approve PGE’s request to waive the requirement that PGE file its Code of Conduct audit report on June 1, 2021 and extend the due date of the report from June 1, 2021 to September 1, 2021.