

ORDER NO. 23-459

ENTERED Nov 28 2023

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UP 424

In the Matter of

PORTLAND GENERAL ELECTRIC
COMPANY,

Application in Regard to Sale of Utility
Property.

ORDER

DISPOSITION: STAFF'S RECOMMENDATION ADOPTED

At its public meeting on November 28, 2023, 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:



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. CA16

**PUBLIC UTILITY COMMISSION OF OREGON
REDACTED STAFF REPORT
PUBLIC MEETING DATE: November 28, 2023**

REGULAR	CONSENT	X	EFFECTIVE DATE	December 12, 2023
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DATE: November 16, 2023

TO: Public Utility Commission

FROM: Itayi Chipanera

THROUGH: Bryan Conway, Marc Hellman, and Matt Muldoon **SIGNED**

SUBJECT: PORTLAND GENERAL ELECTRIC:
(Docket No. UP 424)
Application Regarding the Sale of Production Tax Credits.

STAFF RECOMMENDATION:

Staff recommends the Public Utility Commission of Oregon (Commission) approve Portland General Electric's (PGE or Company) proposal to sell Production Tax Credits (PTC) generated in 2023 and record any difference in the full value and the discounted value¹ in a property sale balancing account.

DISCUSSION:

Issue

Whether the Commission should approve PGE's application, seeking approval to sell PTCs and recover the difference between the full value and the discounted value from customers.

Applicable Rule or Law

ORS 757.480 requires public utilities doing business in Oregon to seek prior approval from the Commission before selling or disposing utility property whose value exceed \$1 million.

¹ The discounted value is the value that PGE will receive for the PTCs.

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OAR 860-027-0025 sets forth the information required to support an application seeking approval for the sale, or disposal of utility property.

OAR 860-027-0025(1)(l) requires that the applicant show that the proposed transaction is consistent with the public interest.

Analysis

Power generating facilities that meet the renewable energy generation requirements of Internal Revenue Code Section 45 are eligible to receive a per Kilowatt Hour (kWh) tax credit. Production tax credits are used to offset an entity's federal tax liability subject to a seventy five percent limit of the tax liability each year. Credits that exceed the seventy five percent limit are accumulated as a Deferred Tax Asset (DTA) on the entity's balance sheet.

The Inflation Reduction Act of 2022 provided a method to transfer (sell) these credits that are generated in 2023 and after. In its general rate case UE 416, PGE filed a deferred tax asset balance of \$104 million, which includes approximately \$30 million on production tax credits expected to be generated in 2023.

In a settlement meeting held on June 28, 2023, the Alliance of Western Energy Consumers (AWEC), Oregon Citizens' Utility Board (CUB), Commission Staff (Staff) Walmart, and Portland General Electric (PGE), (collectively, "the Stipulating Parties") entered an uncontested stipulation specifying that PGE will reduce its deferred tax asset amount included in rate base for UE 416 by selling 2023 PTCs. The parties agreed that a discount of no more than ten percent of the credit's face value be allowed. The Stipulating Parties also agreed that value lost to the discount will be recoverable from customers, but any additional costs associated with conducting a request for proposal cannot be recovered. The parties convened again on October 18, 2023, for further discussions and there was unanimous support for the proposal.

PGE has selected a potential buyer of the production tax credits after receiving and considering several proposals from interested parties. **[BEGIN CONFIDENTIAL]**

[END CONFIDENTIAL]

PGE is requesting to record the discount on the sale of the tax credits in its property sale balancing account.

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Conclusion

PGE customers are already receiving the production tax credit benefits as the credits have already been priced into 2023 power costs. Reducing rate base through a sale of PTCs reduces the return on rate base that customers must pay to PGE in exchange for this credit to power costs.

As a sale of property, the standard of review is to ensure the property sale meets a no-harm test. The proposed sale of production tax credits is consistent with public interest, and meets the no-harm standard, as it saves customers money by escalating tax credit use rather than deferring them to accumulate in a tax deferred asset account while customers pay a higher return to the Company.

The Company has reviewed a draft of this memo and voiced no concerns.

PROPOSED COMMISSION MOTION:

Approve PGE's request to sell 2023 Production Tax Credits as proposed and allow the Company to record the difference between the full value and the discounted value in its property balancing account with an effective date no later than December 12, 2023.

PGE UP 424 PTC Sale.