

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UE 427

In the Matter of

PORTLAND GENERAL ELECTRIC
COMPANY,

Renewable Resource Automatic
Adjustment Clause (Schedule 122)
(Clearwater Wind Project).

ORDER

DISPOSITION: STIPULATION REJECTED; FURTHER PROCESS DIRECTED

I. SUMMARY

In this order, we reject an all-party stipulation related to Portland General Electric Company's request to include the revenue requirement associated with the Clearwater II and Clearwater East phases of the Clearwater Wind Project (Clearwater), including net variable power costs (NVPC), in rates through Schedule 122. Based on the record before us, we are not satisfied that the stipulation offered by the parties is adequate to address the concerns with the 2021 Request for Proposals (RFP) process through which Clearwater was selected, as raised in the record to date, nor to ensure that ratepayers are protected from the potential costs of the resulting deliverability risk. We direct the Administrative Hearings Divisions to establish a procedural schedule for the remainder of this proceeding.

II. PROCEDURAL HISTORY

On October 30, 2023, PGE filed revised tariff sheets for Schedule 122, to become effective June 1, 2024. In its filing, PGE proposed to implement a credit through its Renewable Resources Automatic Adjustment Clause (RAC) tariff based on the costs and benefits from Clearwater. At the time of its filing, PGE estimated a total Schedule 122 refund of approximately \$9.9 million or 0.3 percent effective June 1, 2024.¹ Staff of the

¹ PGE filed a deferral in docket UM 2306 to track expenses between Clearwater's in-service date and the Schedule 122 effective date, which PGE will propose to collect effective January 1, 2025. These costs include fixed and variable such as the return on and of capital costs, operations and maintenance expenses,

Oregon Public Utility Commission and the Oregon Citizens' Utility Board (CUB) participated as parties in the proceeding. Staff filed opening testimony on February 6, 2024. On March 5, 2024, PGE, Staff, and CUB (stipulating parties) filed a stipulation resolving all issues in the docket and joint testimony in support of the stipulation. The Administrative Law Judge issued a ruling admitting the exhibits offered by the parties to date into the record.

III. THE STIPULATION

The stipulation provides for a credit effective April 1, 2024, for the purpose of providing a decrease to customers' bills sooner. The total forecasted revenue requirement credit for April 1, 2024, through December 31, 2024, under the stipulation is approximately \$15.8 million, or 0.5 percent. The total annual benefit under the stipulation is estimated at \$30.2 million.

Under the stipulation, PGE would reflect a capacity factor in MONET² assuming 240 MW of firm transmission and would implement a capacity factor of 43.99 percent for 2024. For the first four years of forecasting Clearwater's capacity factor in MONET, the 5-year rolling average capacity factor used would be capped at an average change of no higher than 105 percent and no lower than 95 percent of 43.99 percent. Under the stipulation, PGE would also include the incremental cost of 10 MW of additional firm transmission. PGE would also provide an annual performance report as part of its NVPC minimum filing requirements through 2033. The annual performance report would compare assumptions made in both the RFP and in PGE's annual forecast of power prices (the annual update tariff or AUT) to actual observed results.

The stipulation also includes provisions addressing the removal of a \$19.7 million deferred tax asset for production tax credits (PTCs) from rate base and the potential sale of the PTCs. PGE would continue to include the value of the PTCs in the NVPC included in Clearwater's revenue requirement.

IV. RFP CONDUCT

In opening testimony filed prior to the stipulation, Staff raised concerns with the fairness of the 2021 RFP that may have resulted in a less competitive outcome and recommended measures to mitigate the cost of deliverability risk to ratepayers. Staff testified that Clearwater and other bidders did not meet the 80 percent minimum transmission requirement in the RFP, but that Clearwater was moved forward in the process at its

net variable power costs, associated transmission costs, income taxes, property taxes, and other fees and costs associated with Clearwater.

² MONET is the Multi-area Optimization Network Energy Transaction model PGE uses to forecast power costs.

initial design size, while similarly situated projects were asked to resize.³ Staff stated that where other bidders were directed to remedy transmission deficiencies, which appears to have led to some bids withdrawing from the RFP process, PGE did not hold Clearwater to the same requirement in the same manner.⁴ Staff argued that transmission alternatives made available to Clearwater were not made available to other bidders.⁵

Staff explained that the 80 percent minimum transmission requirement emerged in the Interim Transmission Solution in the 2019 Integrated Resource Plan. Prior to that, projects were required to demonstrate long-term firm transmission service for 100 percent of the nameplate capacity. Staff stated that PGE is occasionally subject to curtailment from the Bonneville Power Administration and the Energy Imbalance Market and argued that failure of Clearwater, as the selected bid, to meet the 80 percent transmission requirement potentially harms ratepayers.⁶ Staff explained that after engagement with PGE, Clearwater was able to achieve 77 percent of its nameplate capacity covered by long-term firm or conditional firm transmission rights and was moved forward in the RFP process.⁷ Staff testified that the independent evaluator (IE) ultimately found this acceptable but did not give specific reasons why other projects with similar shortcomings were treated differently.⁸

Staff noted that while Clearwater was the most cost-effective bid at the end of the RFP, it is unclear if Clearwater would have been priced more competitively if other bidders had continued to participate in the process as a result of being offered the same transmission alternatives as Clearwater.⁹ Staff argued that by accepting a bid that didn't meet minimum requirements, PGE will potentially incur more costs than it would have if PGE applied the requirements of the RFP uniformly.¹⁰ To protect customers from the costs of potential transmission shortfalls, Staff proposed that PGE's NVPC forecast be calculated based on an assumption that PGE had long-term firm transmission rights equal to 80 percent of Clearwater's nameplate capacity. Staff also proposed that a performance mechanism be attached to the recovery of power costs associated with Clearwater. Under the performance mechanism, the cost of the first 10 MW of short-term transmission rights used to deliver power from Clearwater to PGE's load would be excluded from recovery and any marginal power costs and curtailment fees (net of any Clearwater revenues from sales to another balancing authority) resulting from an inability for Clearwater to deliver due to lack of available transmission also be excluded from the results of the Power Cost Adjustment Mechanism.

³ Staff/200, Dlouhy/16.

⁴ Staff/200, Dlouhy/16-18.

⁵ Staff/200, Dlouhy/16-17.

⁶ Staff/200, Dlouhy/15-16.

⁷ Staff/200, Dlouhy/16-17, 19.

⁸ Staff/200, Dlouhy/16-17.

⁹ Staff/200, Dlouhy/19, 21, 24.

¹⁰ Staff/200, Dlouhy/19, 21.

V. STANDARD OF REVIEW

ORS 469A.050 establishes a renewable portfolio standard that requires electric utilities to meet specified percentages of their Oregon load with electricity generated by eligible renewable resources by specified dates. As required by ORS 469A.120(2), the Commission established PGE's RAC to provide for recovery of prudently incurred costs to construct or acquire renewable generation facilities and associated transmission between rate cases. The RAC enables the company to recover the actual and forecasted revenue requirement for eligible plant that is in service as of the date of the proposed rate change. In evaluating whether renewable generation facilities or associated transmission are eligible for recovery under the RAC, the Commission reviews whether the plant investments were prudently incurred and will be in service as of the date of the rate change.

VI. RESOLUTION

We review settlements to determine whether, on a holistic basis, they serve the public interest and result in just and reasonable rates. We have recognized the benefits of settlement, which include conserving litigation resources, avoiding litigated outcomes and associated risks, and prioritization of efforts, we are not convinced yet that this stipulation is in the public interest. Here, we recognize that the stipulation would have resulted in an earlier implementation of a bill credit for customers. However, we have concerns about competitive fairness issues associated with PGE's conduct within the 2021 RFP, as addressed in Staff's opening testimony, and the resulting risk to ratepayers.

Under the Interim Transmission Solution, renewable projects are required to demonstrate 80 percent of the project's nameplate capacity is covered by long-term firm or conditional firm transmission service; while 100 percent had previously been required, 80 percent was the new standard set to balance deliverability risk with renewable bid feasibility. As explained in Staff's testimony:

The Interim Transmission Solution aims to balance the feasibility of renewable resource requirements while still ensuring that costs and risks aren't unduly shifted onto the Company's customers. The Interim Transmission Solution inherently recognizes that there is added cost and risk by only requiring a renewable project to have 80 percent of its nameplate capacity covered by long-term firm or conditional firm transmission rights. Staff is concerned that a failure to meet even this more

flexible requirement could unfairly burden the Company and its customers.¹¹

Here, the record so far indicates that a partially utility-owned resource¹² that did not meet the 80 percent transmission requirement moved forward in the RFP process, with apparently preferential access to certain transmission alternatives, while other bidders who did not meet the same threshold were asked to resize.¹³ Although the IE indicated that certain other projects were likely not competitive when compared on cost, any disparate treatment of other bids relative to a project with a utility ownership interest compromises the integrity of RFP process, and thus the value of the RFP process to PGE's customers.¹⁴ All of these projects, including Clearwater, were subject to the same RFP requirements and should have received the same treatment within the RFP process. We are concerned that a partially utility-owned resource appears to have been moved forward in the RFP process, receiving different treatment from other projects, despite its failure to meet an RFP requirement that was intended to mitigate risk to customers. We recognize that PGE has not yet responded to Staff's assertions in testimony.

Although we think the stipulation begins to address the issues raised by Staff, we are not convinced that the terms of the stipulation go far enough to address the fairness concerns raised in the record to date regarding PGE's actions in the RFP process or the risks associated with Clearwater not meeting the 80 percent transmission requirement. While the annual performance reporting requirements under the stipulation would allow us to monitor performance and deliverability, we find that the parties did not demonstrate that the limited and temporary capacity factor adjustment, effective from 2024 through 2027, is sufficient to protect against ratepayer impacts from potentially higher delivery costs associated with Clearwater. Although we have not received reply testimony from PGE explaining its perspective on the RFP, we are at this point unsure that the stipulation provides enough encouragement to PGE to improve the fairness of its conduct in future RFPs.

Therefore, before we reach a resolution in this docket, we wish to see reply testimony from PGE addressing the concerns raised by Staff in opening testimony and discussed in this order.¹⁵ Accordingly, we reject the stipulation.

¹¹ Staff/200, Dlouhy/15.

¹² PGE/100, Abel-Batzler/2. Clearwater East (208 MW) was acquired by PGE under a build-transfer agreement. Through Clearwater II, another part of the project, 103 MW will be sold to PGE under a PPA.

¹³ Staff/200, Dlouhy/16-17.

¹⁴ Staff/200, Dlouhy/19.

¹⁵ We note that we did not discuss all of the RFP issues raised in Staff testimony in this order, particularly those addressed in highly confidential testimony. We expect PGE to respond comprehensively in its testimony to the issues raised throughout Staff's opening testimony.

The Administrative Hearings Division will establish a procedural schedule beginning with reply testimony from PGE on April 25, 2024, and resolving this proceeding for a target rate effective date of August 1, 2024, to minimize the delay of the bill credit for customers.¹⁶ Parties may continue to work together in developing a negotiated resolution that is responsive to the concerns expressed in this order.

VII. ORDER

IT IS ORDERED that:

1. Advice No. 23-20 filed by Portland General Electric Company is suspended for a period of two months from June 1, 2024, the effective date of the tariff sheets.
2. The stipulation between Portland General Electric Company, Staff of the Public Utility Commission of Oregon, and Oregon Citizens' Utility Board, filed on March 5, 2024, is rejected.
3. The Administrative Hearings Divisions is directed to establish a procedural schedule for this proceeding.

Made, entered, and effective Apr 04 2024.



Megan W. Decker
Chair



Letha Tawney
Commissioner



Les Perkins
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).

¹⁶ ORS 757.215(1) authorizes the suspension of a rate filing for a period up to nine months.