

ORDER NO. 24-106

ENTERED Apr 19 2024

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UP 426

In the Matter of

PORTLAND GENERAL ELECTRIC
COMPANY,

In Regard to the Sale of Utility Property

ORDER

DISPOSITION: STAFF'S RECOMMENDATION ADOPTED

At its public meeting on April 16, 2024, 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. CA9

**PUBLIC UTILITY COMMISSION OF OREGON
REDACTED STAFF REPORT
PUBLIC MEETING DATE: April 16, 2024**

REGULAR _____ CONSENT X EFFECTIVE DATE April 17, 2024

DATE: April 5, 2024

TO: Public Utility Commission

FROM: Kathy Zarate

THROUGH: Bryan Conway and Russell Beitzel **SIGNED**

SUBJECT: PORTLAND GENERAL ELECTRIC:
(Docket No. UP 426)
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 2024 and 2025 and record any difference in the value, as provided to customers, and the discounted value,¹ in PGE's 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 through sales as they occur.

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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)(I) 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 75 percent limit of the tax liability each year. Credits that exceed the 75 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. This same approach was adopted in a Stipulation in UE 427, the Clearwater Wind project docket. Those agreements have that PGE provides a credit to customers in rates based on the assumption that PGE will be able to sell the PTCs at a discount of no more than 10 percent of the credit's face value be allowed. Also, any value lost associated with the need to offer a discount will be recoverable from customers. UP 424, which is a similar transaction, and under the terms described above, was presented and approved at the November 28, 2023, Public Meeting, Item No. CA16.

As of the development of this memo, no Commission order has been issued in UE 427. However, Staff assumes that the same PTC sales arrangement will be approved since the Commission approved a similar arrangement in UE 416.

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

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[REDACTED] [END CONFIDENTIAL]

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

During the course of Staff's review, Staff became aware that AWEC had some concerns regarding the sale of PTCs and related ratemaking issues. To resolve these concerns, Staff, PGE and AWEC met on April 5, to discuss matters relating to PTC sales. As a result of this meeting, and follow on email communications, PGE, AWEC and Staff, agreed that any potential impact the sale of future credits has on PGE's rate base and production tax credit carryforward balance can be addressed in the 2025 Test Year General Rate Case proceeding. Finally, as it pertains to 2024, PGE is open to including compensation related to actual PTC utilization during 2024 and Parties agree to address this as part of the 2025 GRC. With this agreed to understanding, the AWEC concerns have been resolved for purposes of this property sale filing.

Conclusion

PGE customers will be receiving the production tax credit benefits as the credits have already been priced into 2024 power costs and will be in the 2025 power costs through prices charged to customers.

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 through the discounted sale rather than deferring them to accumulate in a tax deferred asset account until such time the Company has sufficient tax obligation.

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

PROPOSED COMMISSION MOTION:

Approve Portland General Electric's (PGE or Company) proposal to sell Production Tax Credits (PTC) generated in 2024 and 2025 and record any difference in the value, as provided to customers, and the discounted value, in PGE's property sale balancing account.

PGE UP 426 PTC Sale