

**PUBLIC UTILITY COMMISSION OF OREGON
INTEROFFICE CORRESPONDENCE**

DATE: September 6, 2011
TO: Marc Hellman *MH*
FROM: Brian D. Bahr *BDB*
THROUGH: Michael Dougherty *MD*
SUBJECT: PGE Wage/Billing Audit

Summary

Staff conducted an audit of Portland General Electric's (PGE or Company) policies and practices relating to the billing of overtime labor to third parties and to employee timekeeping. The audit was conducted at the request of the Public Utility Commission of Oregon (PUC or Commission) Consumer Services Division. The scope of the audit was limited to the period of time from January 1, 2008, through the present.

The objectives of the audit were:

1. To assess if premium pay incurred by PGE employees for repair work is being appropriately billed by PGE to third parties.
2. To assess if PGE's controls over employee timekeeping practices are adequate and appropriate.
3. To assess if PGE's overtime labor wage practices are aligned with PGE and union labor policies, and if those policies are appropriate.

In conducting this audit, Staff made 43 detailed data requests of the Company as well as phone calls with various Company representatives to discuss and clarify responses to those requests. It is important to note that this audit was conducted primarily on a sample basis, and issues and concerns that were not encountered during the audit process may be discovered during future regulatory actions and proceedings.

Summary of Recommendations

Staff makes the following recommendations:

1. The Company should have a review conducted of its internal controls over the third-party timekeeping and billing business processes.
2. The Company should continue to review annual average labor rates used for third-party billings to ensure that rates being charged are accurate and reasonable.

3. The Company should revise its timekeeping policy from half hour increments to quarter hour increments or less.
4. The Company should update the language “designate fractional hours in tenths” on employee timecards to match Company timekeeping policy.
5. The Company should continue to require regular periodic training and review for employees on the topic of timekeeping, specifically reinforcing policies against “bridging,” “first through the gate,” and other inappropriate timekeeping practices, and emphasizing the importance of accurate timekeeping by employees.
6. The Company should encourage employees to keep personal records of time kept and verify these to time recorded by the Company. The Company should also continue to educate employees on the recourses available when discrepancies are noted.
7. The Company should continue to educate employees on the resources available for reporting unethical behavior and encourage employees to take advantage of such resources.

Analysis/Background

PGE has provided electricity to customers in the northern Willamette Valley since 1889 and incorporated in 1930 as an electric utility. As of December 31, 2010, PGE had 2,671 employees, and is involved in retail electric sales and non-trading wholesale electric and excess natural gas sales. PGE’s service area, located entirely within Oregon, is approximately 4,000 square miles, and includes 52 incorporated cities, of which Portland and Salem are the largest. PGE’s service area population is approximately 1.7 million, with a base of about 820,000 retail customers, of which approximately 718,000 are residential.

Over the course of the past year, PUC Consumer Services Division has become aware of allegations against PGE relating to inappropriate timekeeping, wages, and billing practices. This prompted a request for Staff to perform an audit of certain aspects of said processes.

Discussion

Staff focused its review on two key areas, third-party billing, and timekeeping policies and practices.

Billing

When billing a third party for incident repair work performed by PGE personnel that is attributable to that third party (for example, billing an insurance company for repair work done to a Company pole for damage that occurred because of an automobile accident), the billings and costs offset each other in the Construction Work in Progress account (FERC account 107).

Because this is a balance sheet account and not an expense/revenue account, the billings are not included in revenue that is reported by the Company. Because Construction Work in Process is not a revenue account, these billings, and offsetting expenses, are not included in rates paid by customers. Therefore, minor discrepancies in amounts billed will have no immediate direct effect on rate payers, but could affect rates in the future if costs are not covered by rates charged.

In order to test the accuracy of third-party billings, Staff requested from PGE all invoices in which premium pay was billed for the months of February, June, and October of 2008, 2009, and 2010. From these 19 invoices Staff selected a sample of five invoices for testing. Staff vouched the number of premium hours booked per each of the five invoices to the sum of each of the crew members' premium hours booked on their individual timesheets. Two discrepancies were found in which the sum of the individual crew members' recorded premium hours worked as recorded in timesheets was greater than the amount of premium hours billed to the third party. This in turn would obviously cause the amount billed to the third parties to be less than the amount calculated based on the crew members' individual timesheets.

Per written response from the Company to a data request inquiring specifically about these two situations, the invoice shows the amount billed per the hours worked specifically on that job, while the individual crew members' timesheets included time spent on other activities not billable to that specific third party. By comparing timesheets with data from the Responsibility Center, billing specialists can isolate the time spent on a specific third-party billing job and bill accordingly. In other words, the timecard summary sheet included in the invoice includes hours from crew members that did not work on the relevant billing job. Because both discrepancies were not in the favor of the Company, and because the Company's response to the discrepancies appears reasonable and logical, Staff concludes that this testing contains no exceptions.

In addition to the testing of the accuracy of third-party premium billing described above, Staff also vouched the total amount of premium pay per each invoice to the T-accounts for the related PGE ledgers and FERC accounts in order to gain comfort that the billings and costs were being booked to the correct accounts and not included in either revenue or expense accounts. All five invoice billings agreed to the amounts in the T-accounts. According to PGE, both billings and expenses are booked to FERC Account 107, Construction Work in Progress – Electric (CWIP), and therefore offset each other. CWIP is neither a revenue nor expense account and is not included in rates. Per response to a data request, the Company stated specifically that CWIP was not included in its most recent rate case, Docket UE 215.

A suggested approach of testing the accuracy of both the billing and timekeeping practices of PGE would be to compare individual crew members' time sheets to gate times. However, the gate to the yard was never intended as an accurate timekeeping mechanism. During busy hours of the day it is left open, with employees neither clocking in nor out, and when a vehicle enters the yard, only the driver would swipe his or her card, not any of the other crew members. Staff therefore concluded that this method of testing would not be effective.

When billing third parties for incidents requiring repair by PGE crews, the Company uses an average billing rate rather than using the calculated rate of each employee on the job. According to PGE,

“Labor rates are based on the then current Collective Bargaining Agreement (CBA) in effect. The labor billing rates are calculated using the CBA labor rates for a typical three-man crew, made up of a Working Foreman Lineman, Journeyman Lineman, and Line Truck Driver “B.” The three hourly pay rates are averaged to determine the hourly billing rate. The billing rates were updated during the current CBA term four times due to wage increases effective March 4, 2009, February 17, 2010, September 1, 2010, and March 2, 2011. The Asset Accounting Manager then reviews the labor billing rates to ensure their accuracy.”

Staff reviewed the Company’s most recent Accounting Practices and Procedures Bulletin (APPB), effective March 2, 2011, which establishes the current rates for billing jobs. Staff noted all rates appeared reasonable and noted no items meriting further investigation. Staff concludes that PGE’s policy of billing labor to third parties is not inappropriate, inaccurate, or unreasonable, and PGE third-party billing practices appear to be in conformity with its policy. However, as these accounts are not directly included in rates, these accounts are typically not as scrutinized as other cost elements. This lack of scrutiny presents opportunities for intentional and unintentional errors to occur, and potentially even fraud. Staff recommends PGE establish and regularly review strong internal controls over the third-party billing process.

Timekeeping

Staff specifically reviewed PGE’s policies and practices regarding the following five specific alleged timekeeping practices:

- Bridging (in which an employee who finishes his or her overtime job several hours before beginning his or her regular shift will “bridge” that time by not clocking out);
- Five for 15 rule (in which an employee who arrives to work five or more minutes early may leave up to 15 minutes early under the direction of a foreman provided all his or her work is completed);
- Time sheet rounding (employees round arrival and departure times to nearest half hour rather than to nearest 10th as specified on timesheets);
- First through the gate (all employees on a job begin charging time at the time of arrival of the first employee on the job); and
- Timesheet discrepancies (timesheets recorded by an employee are either deliberately changed or unintentionally inaccurately recorded in the timekeeping system).

"Bridging"

In response to a Staff data request inquiring about the bridging practice, PGE stated the following, "PGE neither has this policy nor employs this practice." PGE's timekeeping policies are based on the Bargaining Agreement between PGE and Local Union No. 125 of the International Brotherhood of Electrical Workers (Bargaining Agreement), which clearly and specifically states proper timekeeping policies for union employees of PGE. Section 20.3 of the Agreement states the following regarding overtime pay:

"An employee called to perform non-scheduled overtime work shall be paid from the time the employee reports for work until relieved from duty and in addition shall receive pay for one-half (1/2) hour travel time each way when such overtime does not immediately precede or follow the regular shift. When such overtime immediately precedes the regular shift, the employee shall be paid travel time "one way" only. When the overtime immediately follows the regular shift, travel time shall not be paid."

In addition to being clearly stated in the Agreement, PGE, in conjunction with the union, also issued a Joint Communication in November 2008, summarizing policies and practices, clarifying expectations, and reinforcing those expectations. This document was presented to all supervisors and posted conspicuously throughout the Company and Union facilities.

The Company also employs a process through which employees may anonymously report unethical or illegal practices. This process is explained by the Company thusly:

"PGE provides several ways to bring up inappropriate timekeeping or billing practices (and other issues that employees may have). Employees can talk with their managers, contact their HR Consultant, or approach the Ethics & Compliance Department. PGE also works with a third party company called EthicsPoint, which gives employees anonymous methods for reporting any issues they notice. Employees can call the EthicsPoint Hotline phone number, or make an anonymous report through the EthicsPoint Hotline Website.

Once an employee reports an issue through the EthicsPoint system, EthicsPoint notifies members of PGE's Ethics and Compliance Department of the report through an email. Ethics and Compliance has a matrix for routing the report to the right department based on the subject of the report (a theft report would be sent to PGE Security while a personnel issue would be sent to HR). Reports about inappropriate timekeeping would likely be sent to HR, and an HR consultant would begin the investigation process."

According to PGE, inappropriate timekeeping falls under Corporate Discipline Policy for addressing unacceptable conduct in the workplace. Because each case is unique, the exact course of investigation and discipline would depend on the specifics of the case. Possible

disciplinary actions might include a written warning, suspension without pay, or termination of employment. Staff requested from PGE and reviewed all investigations and subsequent disciplinary actions between 2008 and 2010 relating to employees incorrectly reporting time. During that period, 14 total investigations relating to timekeeping issues were conducted by the Company. Four of these were found to be unsubstantiated, and the other cases resulted in disciplinary actions ranging from coaching and counseling to termination. Staff concludes that the Company's disciplinary system for inaccurate timekeeping is appropriate and reasonable.

Though impossible to prevent or detect *every* instance of an employee inappropriately bridging his or her time, Staff is satisfied that the practice is not common and finds that PGE has taken appropriate action and implemented sufficient policy to discourage the "bridging" practice by employees. Staff recommends that PGE continue to periodically explain and review proper timekeeping practices, and subsequent potential disciplinary actions for those employees found to be engaging in inappropriate practices, to all employees to discourage employees from engaging in the "bridging" practice.

"Five for 15" rule

In order to encourage crew timeliness and efficiency, PGE employs a practice in which foremen and crew members are expected to be available on site to prepare for the work to be performed. If the foreman and crew members are then finished with the day's work prior to their scheduled shift end time, they may leave up to 15 minutes early. This practice would only be applicable to regular shifts and not to overtime call-out work performed. Although this is a long-standing work practice, it is not a part of the Bargaining Agreement.

According to the Company's response to Staff Data Request No. 11,

"Generally, the jobs are scheduled and assigned based on the average time each type of job is expected to take. If the crew completes their work earlier than estimated but have insufficient time to start a new job, they may return to the line center to perform routine duties such as storeroom returns, truck cleanup, and organizing for the next day. These activities are not charged to customer billings. If all scheduled work and routine duties are complete, crews may leave up to 15 minutes earlier than their scheduled end time."

The Joint Communication echoes this practice, instructing that when an employee's planned work for the day is finished early, that employee should call the dispatcher to see if more work is available. If nothing is available the employee would then return to the yard to perform routine work such as cleaning and stocking trucks. It is in this type of situation, when an employee's scheduled work is finished and the employee is performing routine work in the yard to finish the time on his or her regularly scheduled shift, that an employee might activate leave up to 15 minutes early.

Staff believes that this practice is in accordance with industry labor practices, does not promote or reward inefficiency, and does not cause harm to PGE customers or shareholders, as long as the practice is appropriately supervised and not abused. PGE employs Foremen to supervise crews, reviews employees' timecards at several different levels, and provides opportunities for employees to anonymously report unethical behavior, all of which contribute to effective monitoring of employee timekeeping. Staff recommends that PGE continue to actively monitor and review employees' time to ensure that abuses of Company timekeeping policy do not take place.

Timesheet rounding

In response to a Staff data request regarding the "five for 15" rule discussed above, the Company stated, "...line crews use 30 minute intervals to fill out their timesheets. For example, 6:45 a.m. would be rounded to 7:00 a.m. and 3:15 p.m. would be rounded to 3:30 p.m." This statement prompted Staff to question the possibility of an employee manipulating start and end times so that extra time was charged (ie. An employee arriving at 7:14 a.m. might round down to 7:00 a.m. and leaving at 3:15 p.m. might round up to 3:30 p.m., thereby charging eight and a half hours rather than the more accurate eight.) PGE's response is as follows:

"Although PGE has a thirty-minute interval timekeeping system, employees would not be able to round up and down their hours as in the situation proposed above.

Crews must arrive before their shift starts, as they all receive information about the day's work and leave for jobs together. Crew members who do not arrive early or on time for their shift will be disciplined, and would not be allowed to round down their time to cover their tardiness."

Staff recognizes the need for employees to be at work before their official start time, but also notes that always rounding down could result in practices that violate the Fair Labor Standards Act. Some degree of rounding is necessary regardless of the increment of time used, but Staff concludes that recording time in quarter hour increments would improve the accuracy of the Company's timekeeping and billing practices as well as potentially improving the accountability of employees.

Under the Code of Federal Regulations, Title 29: Labor, §785.48(b), it says:

"Rounding" practices. It has been found that in some industries, particularly where time clocks are used, there has been the practice for many years of recording the employees' starting time and stopping time to the nearest 5 minutes, or to the nearest one-tenth or quarter of an hour. Presumably, this arrangement averages out so that the employees are fully compensated for all the time they actually work. For enforcement purposes this practice of computing working time will be accepted, provided that it is used in such a manner that it will not result, over a

period of time, in failure to compensate the employees properly for all the time they have actually worked.

Using half hour increments to record time is not specifically mentioned; however, Staff noted that the largest increment of time listed in the regulation is a quarter hour. The State of Oregon has no mention of rounding practices in its State Labor Laws according to Staff's research. Other industries researched by Staff commonly record time to the nearest tenth of an hour. Staff also noted that while Company practice is to record time rounded to the nearest half hour, the instructions written on all timesheets indicate that time should be kept in tenths.

Staff recommends that the Company institute as soon as reasonable a policy that requires employees to keep time in quarter hour increments or less. In conjunction with this recommendation, the Company should also either remove from all timesheets the instructions to record time to the nearest tenth or replace it with language consistent with PGE's timekeeping practice as soon as reasonable. The Company should also continue to periodically train and review proper timekeeping practices with employees.

Staff notes that per email and phone conversation with the Company following a courtesy review of the draft audit report, the Company plans to reduce time-keeping increments to no more than quarter hours no later than the first quarter of 2012, per Staff's recommendation.

"First through the gate" rule

The allegation that some crews are charging their time on jobs using a "first through the gate" practice is difficult to test without actually inconspicuously observing a number of crews arriving at jobs, recording their times of arrival, and then later comparing those times to the time recorded by the Company in order to determine if the correct hours were booked for each crew member. This test, however, is not practical given the resources available. In lieu of stated test, Staff requested timecards of crew members assigned to the same jobs and reviewed them to see if the time recorded was identical. Though it is reasonable that on many jobs crew members would have worked the same number of hours, Staff noted on several timecards instances where a crew member's timecard differed from those of the other crew members. Though impossible to verify for every crew, this indicates that charging time using a "first through the gate policy" is not common practice.

In addition to the test performed by Staff, Staff gained comfort that crews generally do not charge hours using a "first through the gate" policy by reviewing the Bargaining Agreement, Joint Communication, and various methods available for employees to anonymously report unethical or illegal activities, all of which are described above in the "Bridging" section of this report.

Though Staff notes that there is no way of verifying that *all* crews are not using the "first through the gate" practice, Staff feels the Company has taken adequate measures to educate its employees on proper timekeeping practices. Staff recommends that the Company periodically

review proper timekeeping policies with supervisors in addition to providing, and emphasizing the importance of, this material to all employees.

Timesheet discrepancies

According to Company policy, there is currently no specific requirement for employee time sheets; hours may be recorded by employees in pen, pencil, or any other legible means of writing. Each employee records his or her time on a daily time sheet, which is reviewed and signed by the crew foreman. These time sheets are then reviewed and signed by the General Foreman. Finally, the administrative timekeeper reviews the time sheets before entering them into the system.

According to the Company, if an employee has a dispute with his or her paycheck, specifically with the hours used in calculating the paycheck amount, the employee may bring the dispute before the timekeeper. The timekeeper and the employee would then review the timesheet and the paycheck to find and discuss the discrepancy. If they cannot reach an agreement, they would go to the Foreman to discuss the issue. If the Foreman cannot resolve the problem, the employee would go to the General Foreman, and finally the Union if a resolution is not reached earlier.

Staff finds the Company's policy regarding resolution of timesheet discrepancies to be reasonable and appropriate. There is a process in place through which employees may discuss disputes about their time with escalating levels of authority until a resolution is reached. Staff notes that it is an employee's responsibility to keep track of his or her own time in order to later verify the hours recorded by the Company. Staff encourages employees to bring any disputes to the Company to reach a resolution through the means provided.

Conclusion

Staff conducted this audit per a request from the PUC Consumer Services Division, which was aware of certain allegations against PGE. Staff sent 43 data requests in reviewing specific aspects of the third-party billing policy and practice of PGE as well as certain policies and practices relating to employee timekeeping. In conducting the audit, Staff found no significant improprieties. Staff's recommendations include the continual review of the labor rates charged to third parties, a change to bring the timesheet instructions into harmony with Company policy, and the continued training and review for all employees of appropriate timekeeping practices.

Other

Staff appreciates the cooperation of PGE throughout the audit.

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