

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: August 20, 2003**

REGULAR **CONSENT** **EFFECTIVE DATE** _____

DATE: August 5, 2003

TO: John Savage through Marc Hellman and Rebecca Hathhorn

FROM: Michael Dougherty

SUBJECT: PORTLAND GENERAL ELECTRIC: (Docket No. UI 216) Application Requesting Approval for the Purchase of Time-Of-Use Meters, Network Gateways and Network Services from Metering Technology Corp.

STAFF RECOMMENDATION:

The Commission should approve Portland General Electric's (PGE) application for the purchase of time-of-use meters, network gateways and network services from Metering Technology Corp. (MTC), an affiliated interest, and also approve a waiver of OAR 860-027-0040 subject to the following conditions:

1. PGE shall not include these purchases in their rate base for any subsequent rate proceedings or regulated earnings reporting.
2. PGE shall provide the Commission access to all books of account, as well as documents, data, and records of PGE and MTC's affiliated interests that pertain to this transaction.
3. PGE shall notify the Commission in advance of any substantive changes to the purchases. Any such change shall be submitted in an application for a supplemental order (or other appropriate format) in this docket.

DISCUSSION:

Background

PGE filed this application on July 24, 2003, pursuant to ORS 757.495 and OAR 860-027-0040. PGE requests Commission approval for purchases of time-of use-meters from MTC. Purchases include \$950,000 in meters and network equipment that was charged to Account 107, Construction work in progress, Electrical, and \$100,000 in development and hardware costs that was charged to Account 421, Miscellaneous nonoperating income.

PGE also seeks a waiver of OAR 860-027-0040 in accordance with OAR 860-027-0043 since the transaction does not exceed 0.1% of the previous calendar year's Oregon utility operating revenues.

PGE is a wholly owned subsidiary of Enron Corporation (Enron). Enron holds 100% of common stock of ECT MI Trutta Holdings, LP, which in turn owns 13.3% of MTC. Therefore, PGE and MTC are affiliated interests under ORS 757.015(6).

As part of PGE's network meter reading (NMR) system, PGE purchased residential meters, communication gateways, software, and engineering services from MTC. PGE used these meters to serve time-of-use (TOU) customers. PGE also performed a pilot program with a number of these meters to test a communication gateway that enabled PGE to collect hourly usage information on a daily basis. With this system, customers could gain access to their daily TOU energy usage on a password protected web site.

PGE represents that although similar meter functions were available from a number of manufacturers, MTC's energy monitor/gateway was custom made to PGE specifications and meters with the required capability were not available from other manufacturers. Additionally, PGE states in the Application that they were not aware, at the time of the first purchase, that MTC was an affiliate due to Enron's complicated corporate structure.

Issues

Staff investigated the following issues:

1. Terms and Conditions of the Purchases
2. Public Interest Compliance
3. Records Availability, Audit Provisions and Reporting Requirements

Terms and Conditions of the Purchases

PGE purchased approximately 6,000 meters at \$80 per meter and 4,000 gateways at \$70 per system during the time period of June 2001 to July 2002. PGE stated that they compared costs and functionality of several phone-based units and determined that the MTC meters offered the best value for the same or better price of other units.

Staff compared the prices of the MTC meters to other time-of-use meters available from non-affiliated companies and concluded that the prices paid by PGE for the MTC meters was lower than similar solid state electronic meters. Additionally, PGE received \$236,875 in refunds when MTC sold-off their business, lowering the overall price.

Public Interest Compliance

Because PGE has agreed not to include these purchases in their regulated rate base for any subsequent rate proceedings and has met the Commission's transfer pricing policy, Staff believes that the transaction was fair and reasonable and not contrary to the public interest.

Additionally, PGE initially informed Staff of this matter in February, 2003, when PGE's Regulatory Section first discovered the transactions may have involved an affiliated interest. PGE requested that Staff allow PGE sufficient time to adequately investigate the transaction prior to filing an application for approval.

Although selected personnel at PGE may have had knowledge of MTC's status as an Enron affiliate, Staff believes that PGE's Regulatory Section took the correct action in investigating the transactions and promptly informing Staff of this matter. At one point, Enron owned or participated with over 3,500 subsidiaries and affiliates.

During the timeframe of March 2003 to May 2003, Staff asked PGE about these transactions on several occasions and PGE subsequently reported these transactions in their 2002 Affiliated Interest Report filed on June 1, 2003. Also, as a corrective action, PGE updated and plans to reissue an internal memo from Executive Officers that outlines procedures to be taken when conducting business with an affiliate. This memo includes the definition of affiliates, examples of different types of affiliates, guidelines for affiliate transactions including regulatory approval, transfer pricing policy and contact personnel.

Records Availability, Audit Provisions and Reporting Requirements

The proposed ordering condition No. 2 provides the necessary records access to PGE's relevant books and records.

Based on review of the application, Staff concludes the following:

1. PGE has met the requirements of the Commission's transfer pricing policy for affiliate transactions;
2. Customers are not harmed by this transaction because PGE is removing these purchases from the regulated rate base for any subsequent rate proceedings or regulated earnings report;
3. The Commission will have the necessary records access to PGE's books and records; and

4. The application involves an affiliated interest transaction that is fair and reasonable and not contrary to the public interest, with the inclusion of the proposed ordering conditions.

PROPOSED COMMISSION MOTION:

PGE's application to enter into an affiliated transaction with MTC, including the three recommended conditions, and waiver of OAR 860-027-0040 be approved.