

ITEM NO. 1

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: December 18, 2003**

REGULAR X **CONSENT** **EFFECTIVE DATE** January 1, 2004

DATE: December 8, 2003

TO: Lee Sparling through Marc Hellman and Rebecca Hathhorn

FROM: Carla Owings and Jack Breen III

SUBJECT: PORTLAND GENERAL ELECTRIC: (Docket No. UE 156/Advice No. 03-15) Proposes to add Schedule 320, Meter Information Services, and Schedule 725, E-Manager Program.

STAFF RECOMMENDATION:

Staff recommends the Commission allow Portland General Electric's Advice 03-15, Schedule 320, Meter Information Services, as amended on December 8, 2003, and Schedule 725, E-Manager as originally filed on September 10, 2003, to go into effect on January 1, 2004, with less than statutory notice subject to investigation pursuant to ORS 757.215(4) and include the following conditions:

1. The Company change its current procedures for Meter Information Services to above-the-line accounting beginning January 1, 2004
2. E-Manager Program will be allowed to go into effect on January 1, 2004 on Schedule 725 , will continue to be recorded below-the-line and will not be subject to the Staff investigation and ratepayer refund pursuant to ORS 757.215.
3. The Company will be allowed the use of proprietary consumer information pursuant to the offering of this service pending the outcome of the Staff investigation.
4. Any losses associated with providing service to over 500kW customers will not be reflected in any earnings reviews or results of operations pending the outcome of the investigation.

BACKGROUND:

On September 10, 2003, Portland General Electric (PGE or the Company) filed Advice No. 03-15, Meter Information Services and E-Manager Program to become effective on November 5, 2003. The filing was made in accordance with ORS 757.205, *Filing Rate Schedules with the Commission*.

PGE has submitted three requests for an extension since their original filing to allow Staff more time to investigate the issues associated with this filing. The final amendments to this filing were received on December 8, 2003. These amendments were filed by the Company to comply with Staff's recommendations on how this service should be offered during the investigation period.

As described in PGE's advice letter, the purpose of this filing is to tariff the Company's Meter Information Services and E-Manager Program. Both Meter Information Services and E-Manager Program provide the consumer with similar types of interval meter data services. Meter Information Services would be offered to consumers within PGE's service territory, on Schedule 320. E-Manager Program would serve customers outside PGE's service territory, on Schedule 725. Currently, these services are offered to consumers inside and outside of PGE's service territory under the same name.

Meter Information Services and E-Manager both provide consumers with interval data and analysis services that chart and graph the customer's electricity, gas, water, and other services. This type of information could aid consumers in identifying their peak usage periods thus allowing the consumers to analyze whether other pricing options such as Electricity Service Supplier (ESS) options, conservation measures, or real time pricing would be economically beneficial.

As noted above, PGE is currently providing similar services under the name E-Manager, and is currently recording revenues and fully distributed costs to nonutility accounts (below-the-line). In this filing, the Company proposes to change from nonutility accounts (below-the-line) to regulatory accounts (above-the-line), name the service Meter Information Services, and provide the service on Schedule 320. E-Manager Program (on Schedule 725) would continue to record revenues and fully distributed costs to nonutility accounts (below-the-line).

Both Meter Information Service and E-Manager Program allow the consumer the option of choosing from the Standard Package or an Enhanced Package¹. The Company proposes to offer a Standard Package to consumers at each point of delivery registering a facility capacity of 500 kilowatts (kW) or greater² at no direct charge. The consumer could pay incremental costs to upgrade to Enhanced Package options.

¹ A Standard Package Service supplies data to the consumer on a weekly basis while an Enhanced Service supplies data to the consumer on a daily or hourly basis.

² In June of 2003, PGE was providing E-Manager to approximately 700 electricity meters within its service territory - 320 below 500kW and 380 above 500kW (*PGE response to Data Request No. 16, dated October 31, 2003*).

Consumers with a facility capacity of less than 500 kW would pay a start-up fee as well as a monthly meter fee commensurate to their choosing either the Standard Package or the Enhanced Package options.

In addition to the basic interval meter data services offered in either the Standard or Enhanced Packages, PGE proposes to offer Energy Worksite tools that provide any number or combination of the following tools to the consumer:

- a) Asset Manager – provides a template for organizing and storing details of a consumer's key assets such as: name, serial numbers, costs and location of the equipment.
- b) Communicator – allows a consumer to manage the workflow of a project.
- c) Document Manager – allows a consumer to share any form of electronic media through a secure environment.
- d) Energy Benchmarking – assists a consumer in understanding their energy data.
- e) Facilities Checklist – provides facility managers with a checklist for potential energy efficiency measures.
- f) Monitoring – notifies consumer immediately upon sensing atypical demand.
- g) Preventative Maintenance – tracks maintenance tasks necessary for sustaining energy efficient operations.
- h) Project Manager – tracks projects.
- i) Utility Bill Manager – tracks and monitors all utility costs such as gas, electric, water sewage and waste to compare actual costs to budgeted costs.
- j) Implementation Services – provides training programming and consulting services.

DISCUSSION:

Staff believes the following issues deem further investigation:

1. Monopoly or Competitive Service.
2. Accounting Procedures.
3. Access to Proprietary Consumer Information.
4. Provision of service at no charge to over 500 kW consumers.
5. Compliance with Oregon Administrative Rules (860-038-0500 – 860-038-0620), Code of Conduct Rules.

Monopoly or Competitive Service:

Meter Information Services is currently an optional service for which some aspects of the service could be provided by other companies. Both Meter Information Services and E-Manager Program offer the consumer the ability to collect data for water, gas, weather and other services that do not relate to information coming from PGE's meter.

Prior to the UE 115 rate case, PGE offered Meter Information Services as a regulated product. However, with the implementation of direct access, the Company believed there would be alternatives and modified the offering of this service to a nonutility optional service recorded below-the-line.

Staff recognizes that data pulses gathered to perform the analyses for these services are retrieved from an asset owned by PGE, the meter. However, once the pulses are transmitted they can be retrieved either by PGE or by retrieval devices installed by other providers of similar services.

The Company asserts that Meter Information Services should be offered as a regulated service because consumers prefer to receive this service from their current provider. Staff believes that whether a customer desires a service is not determinative as to whether or not it should be provided as a part of the Company's monopoly services.

Staff does agree with the Company that this service *could* be beneficial to the industrial consumer who may be able to alter their processes to take advantage of nonpeak demand load times or take advantage of other energy efficiency measures. Staff agrees that PGE should continue to offer this service, however, Staff believes an investigation would assess its status, either in whole or in part, as a monopoly or competitive service.

Staff has not conducted sufficient analysis to either identify whether the Meter Information Service, or its components, is sufficiently competitive to warrant price deregulation and to continue below-the-line accounting.

Accounting Procedures:

With the addition of Schedule 320, PGE proposes to change the recording of revenues and expenses associated with Meter Information Services to regulated accounts. As previously discussed, Staff has not determined that Meter Information Services is sufficiently competitive to warrant accounting below-the-line. *Therefore, pending the outcome of the Staff investigation, Staff recommends the Company change its current procedures for Meter Information Services to above-the-line accounting beginning*

January 1, 2004. Staff also tentatively agrees that the E-Manager Program should continue to be recorded below-the-line and the Commission should allow Schedule 725 to go into effect on January 1, 2004.

Access to Proprietary Consumer Information:

The Company states that it must have access to proprietary consumer information such as historical usage data in order to market these services and therefore, proposes to offer Meter Information Services as a regulated service in order to gain access to this information. Other providers of this service would also need access to proprietary consumer information such as historical usage data. Currently, other providers must obtain consumer consent and pay a fee to the Company to gain access to the proprietary information pursuant to OAR 860-038-0540.

Staff has great concerns with allowing the Company access to information whereby competitors and other providers of the service must pay to acquire the same information. In response to Staff inquiries, PGE has assured Staff that it has not accessed proprietary consumer information to market *any* nonutility optional services.

To allow PGE access to proprietary consumer information without consumer consent and at no charge would put the incumbent utility at a great advantage over the potential market entrant. Staff sees this as potential market abuse and anticompetitive. As a negotiation concession, Staff has advised the Company that they may be allowed to access the proprietary information during the interim of the investigation. *However, Staff recommends the issue be considered further during the investigation.*

Provision of service at no charge to over 500 kW consumers:

The Company believes that offering Meter Information Services at no charge to over 500 kW consumers would facilitate the development of direct access.

Staff is concerned about the offering of this service at no direct charge to certain customers. Staff believes an investigation would further determine the cost and benefits of the offering as well as the potential impact on other customers.

In addition, PGE's response to data requests made by Staff indicated that PGE had suffered a loss in participation of E-Manager Program when another utility offered a similar service for no charge to its consumers inside its service territory.

Staff believes if the Commission were to allow PGE to offer Meter Information Services at no charge to the over 500 kW consumers, it could in turn, hinder the ability of other providers to offer similar services and be construed as anticompetitive.

The Company has already begun to offer the Standard Package at no direct charge to the over 500 kW consumers as of June, 2003. In response to Staff's request, the Company has agreed to amend this offer to expire June 30, 2004, unless otherwise extended by the Commission as a result of the Commission investigation. *Staff recommends allowing the tariff as amended on December 8, 2003, to go into effect on January 1, 2004, subject to a specific investigation pursuant to ORS.757.215 (4). In addition, the Company has agreed that any losses associated with providing the service to customers would not be reflected in any earnings reviews or results of operations pending the outcome of the investigation.*

Compliance with Oregon Administrative Rules (860-038-0500 – 860-038-0620), Code of Conduct

The investigation will be addressing competition issues including the applicability of the following Code of Conduct rules in regards to Schedule 320, Meter Information Services:

1. Pursuant to OAR 860-038-0580, Prevention of Cross-subsidization Between Competitive Operations and Regulated Operations, recording revenues and expenses in regulated accounts risks subsidization of the program by ratepayers with the potential of under-recovery for the program.
2. Pursuant to OAR 860-038-0540 (b), Consumer Information, the offering of this service creates an opportunity for the Company to advantage itself by accessing proprietary consumer information under the regulated entity to market this service.
3. Pursuant to OAR 860-038-0560 (2), Treatment of Competitors, the provision of a regulated service for no charge or at a discounted rate is not consistent with the fair treatment required to be made available to competitors by an electric utility.

PROPOSED COMMISSION MOTION:

Portland General Electric's Advice 03-15, Schedule 320, Meter Information Services as filed on December 8, 2003, and Schedule 725 E-Manger as originally filed on September 10, 2003, be allowed to go into effect on January 1, 2004, with less than statutory notice subject to investigation pursuant to ORS 757.215(4) and include the following conditions:

1. The Company change its current procedures for Meter Information Services to above-the-line accounting beginning January 1, 2004.
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