

PUBLIC UTILITY COMMISSION OF OREGON  
STAFF REPORT  
PUBLIC MEETING DATE: May 4, 2004

REGULAR  X  CONSENT \_\_\_\_\_ EFFECTIVE DATE  May 12, 2004

DATE: April 27, 2004

TO: Lee Sparling through Ed Busch and Jack Breen III

FROM: Janet Fairchild

SUBJECT: PORTLAND GENERAL ELECTRIC: (Docket No. UM 1081/Advice No. 04-7) Adds a mid-year 2004 price option election window for large nonresidential consumers to select an alternative pricing option from May 17, 2004, through May 24, 2004, for service beginning July 1, 2004, and ending December 31, 2004.

**STAFF RECOMMENDATION:**

Staff recommends that the Commission approve Portland General Electric's Advice No. 04-7, as filed on April 12, 2004, and amended on April 27, 2004, to become effective May 12, 2004.

**DISCUSSION:**

On April 12, 2004, Portland General Electric (PGE) filed Advice No. 04-7 to become effective May 12, 2004. The filing was made in accordance with ORS 757.205, *Filing Rate Schedules with the Commission*. At staff's request, PGE filed amendments to its filing, along with a request for approval with Less than Statutory Notice (LSN) on April 27, 2004.

As directed in Commission Order No. 04-185, PGE has made this filing to implement a staff recommended May 17 through May 24, 2004 declaration window to offer Schedule 483 eligible customers an opportunity to leave PGE's cost of service rate for a term of July 1, 2004, through December 31, 2004. As described in staff's March 5, 2004 report, this opt-out window is to be viewed as a transitional step toward routine, semi-annual declaration windows to allow eligible customers the opportunity to opt-out of the utilities'<sup>1</sup> cost of service rates for a one-year term.

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<sup>1</sup> The semi-annual opt-out windows are expected to be required for both PGE and PacifiCorp. Semi-annual windows will be one of the topics of AR 481, which staff expects to open at the May 18, 2004 public meeting.

As provided by Order No. 04-185, the filing affords customers the opportunity to leave the company's cost of service rate for a July 1, 2004, through December 31, 2004 term, but does not allow customers who have already opted out of the cost of service rate to return to cost of service. It also provides that customers who avail themselves of this option will be subject to a Schedule 125 Part C adjustment rate, based on the difference between energy charges under the Schedule 83 Annual Cost of Service Option and the power market price for the amount of energy freed up by departing load.

Staff has reviewed these changes and finds that they meet the requirements of Order No. 04-185 and should facilitate customer participation in the offering. Staff finds that PGE's calculation of the indicative Part C adjustment appears reasonable and consistent with approved transition adjustment methodologies.

In addition to changes specifically required by Order No. 04-185, the filing also includes:

1. an indicative Schedule 125 Part C adjustment rate, which will be replaced by the actual adjustment rate on May 17, 2004,
2. a provision that if the deviation between actual costs and the posted rate used to establish the Part C transition adjustment is greater than \$250,000, then the Company will amend Part C accordingly,
3. modifications to Schedule 130 to extend the shopping incentive to customers who opt-out during the May declaration window, and
4. changes to Rule H removing language requiring notification when load deviations greater than 5 MW are expected to last longer than one hour.

Indicative Part C Transition Adjustment: Inclusion of the indicative Part C adjustment rate is consistent with the indicative price posting used for the November opt-out window. It is consistent with the provisions of HB 3376, which requires electric companies to announce estimated prices that will be charged for electricity in the subsequent calendar year or contract period. Staff supports this change.

True-Up Mechanism: As originally filed, the Company would have amended the Part C adjustment on June 1, 2004, if the deviation between the market prices used to set the adjustment and the actual prices experienced in disposing of freed-up power was greater than \$250,000. This provision would have meant that the Part C adjustment rate used by customers to decide whether to opt out of the cost of service rate could have subsequently changed. As written, the true-up would have applied only to customers who chose to take advantage of the spring declaration window. This would serve to increase the potential magnitude of the true-up price risk to those customers.

At staff's request, PGE amended its filing on April 27, 2004 to specify that, should a true-up be warranted, it would be calculated on June 1, 2004 and placed in a deferral account to be allocated to all eligible customers via Schedule 125 Part A, pursuant to the 2005 RVM filing, UE 161. This change will ensure that customers who take advantage of the window will know what their Part C adjustment costs will be before they make a commitment to leave the cost of service rate.

Shopping Incentive: PGE's proposed changes to the Schedule 130 Shopping Incentive Credit serve to extend the credit to customers who take advantage of the May declaration window. The filing appropriately notes that the cost of the shopping incentive attributable to customers who opt out via the spring window will be spread to all eligible customers in the same manner as it is for customers who leave during the fall declaration window.

Rule H: PGE's filing includes changes to Rule H, Rules Relating to Requirements for ESSs, Part 11 (B). This rule addresses Scheduling requirements for ESSs and customers. As originally written, the Rule states:

*The ESS will notify the Company as soon as practical of otherwise unplanned load deviations greater than 5 MW that are expected to last one hour or longer. If a Consumer or Consumers are served under an interruptible arrangement by the ESS, the ESS will notify the Company of any interruption coincident with its notifications to those Consumers and will adjust its Electricity Schedule accordingly.*

*The Company may require a Scheduling ESS to change to its Electricity Schedule if the Company believes the Electricity Schedule does not adequately represent the expected ESS Consumer load.*

ESSs and customers identified the 5 MW notification requirement as one of the barriers to customers choosing direct access options in PGE's territory. Customers pointed out that they did not have to notify PGE if they had load deviations when they were on a cost of service rate and found the requirement to do so if they contracted with an ESS burdensome. In order to alleviate the concern, PGE modified the language as follows:

*The Company may require a Scheduling ESS to change its Electricity Schedule if the Company determines the Electricity Schedule does not adequately represent the expected ESS Consumer load. If a Consumer or Consumers are served under an interruptible arrangement by the ESS, the ESS will notify the Company of any interruption coincident with*

*its notification to those Consumers and will adjust its Electricity Schedule accordingly.*

On April 22, 2004, EPCOR Merchant and Capital (US) Inc. (EPCOR), filed comments regarding this change.<sup>2</sup> EPCOR supported the removal of language requiring notification of any 5 MW load deviation. It also acknowledges that the Company has the right to take appropriate emergency scheduling actions in cases of forced majeure events. However, EPCOR asserts that PGE's ability to take these actions is guaranteed by other provisions of Rule H, such as Section 12, *Company Scheduling Responsibilities*, Section 14, *Operational Order to Deliver Electricity*, and Section 15, *Preemption*.

PGE is reluctant to further change this rule because Scheduling ESSs are the entities providing energy to direct access retail customers on an on-going basis. PGE notes that energy imbalance services provided by PGE under the OATT handle deviations between loads and scheduled power but assume that ESS schedules are accurate.

EPCOR's comments were made to clarify the ESSs' interpretation of this tariff language, based on PGE comments at the December 5, 2003 and February 19, 2004, UM 1081 taskforce meetings. EPCOR points out that the tariff language is vague as to when an ESS's schedule would "*not adequately represent the expected ESS Consumer load.*" It correctly points out that PGE tariff rules state that an ESS does not have an obligation to monitor customer load in real time or to change its "Day-of-Flow" Electricity Schedule and that the tariff language is not intended to imply that an ESS would be required to change its applicable "Day-of-Flow" schedule under normal circumstances.

#### **PROPOSED COMMISSION MOTION:**

Portland General Electric's Advice No. 04-7, as filed on April 12, 2004, and amended on April 27, 2004, be effective May 12, 2004, with less than statutory notice.

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<sup>2</sup> On April 22, 2004, Sempra Energy Solutions sent an e-mail to staff supporting EPCOR's comments in their entirety.