

should also be directed to impute such revenues for purposes of any earnings review and other regulatory filings before the Commission.

DISCUSSION:

Portland General Electric (PGE or Company) filed an application on May 17, 2005, pursuant to ORS 757.480 and OAR 860-027-0025. The Company requests authority to lease a substation property for a period of five years to Siltronic Corporation (Siltronic). At the end of the five-year term, Siltronic will have the option of extending the lease for another five-year period. The Company has a pending Substation Operating Lease Agreement with Siltronic to lease the property.

Background

PGE currently owns a substation which exclusively serves the Siltronic wafer manufacturing facility located in Portland. Siltronic is unique in that they have constructed and own the primary voltage feeders from the substation to their own facilities. PGE typically installs and maintains feeders to customers in similar circumstances.

Lease Details

PGE proposes to lease the substation property to Siltronic. The lease is based on PGE's forecasted costs associated with the substation, and PGE will record the lease revenue of approximately \$1.6 million over the five-year term in FERC Account 454 (Rent from Electric Property). The five-year term of the lease is fixed, with no ability on Siltronic's part to terminate early absent PGE's default. Siltronic has the option at the end of the initial five-year period to extend the lease for an additional five-year period.

In addition to leasing the substation from PGE, Siltronic will move from PGE's primary voltage Schedule 83 to the subtransmission voltage charges under Schedule 83. This move will result in an approximate reduction in PGE's tariff revenue of about \$575,000. PGE estimates that the tariff revenue is partially offset by the first-year lease revenue from Siltronic of about \$340,000. PGE also estimates that O&M savings will mitigate a portion of the lost tariff revenue. The first year incremental revenue shortfall would be about (\$575,000-\$340,000), or \$235,000. However, the lease payments decline over time so the incremental revenue shortfall will increase all else being equal.

PGE proposes to spread the incremental revenue shortfall to remaining customers when rates are next reset.

This proposal is a clear benefit to Siltronic with an average savings to Siltronic of approximately \$1.25 million over the five year period (assuming today's rates). However, this proposal would harm all other customers if they were to absorb this shortfall.

While Siltronic may be unique in that it has constructed the primary voltage feeders from the substation to their own facilities, the substation has been in rates and has been paid for by all remaining customers. Absent Commission approval of this lease, Siltronic could perhaps build a substation instead of leasing PGE facilities. However, no one has indicated that Siltronic has any plans to do so.

Standard

ORS 757.480 requires that a public utility must obtain the Commission's approval before selling, leasing, assigning or otherwise disposing of property with a value exceeding \$100,000 that is necessary or useful in the performance of the public utility's duties to the public. This Commission applies a "no harm" standard to such transactions. See OPUC Order No. 01-778 at 10 ("The remainder of the statutory scheme, those statutes governing transfer, sale, affiliated interest transactions, and contracts, either expresses no standard (for instance, ORS 757.480, .485) and has been read to require a no harm standard, or contains a "not contrary to the public interest" standard (ORS 757.490, .495).")

Recommendation

Staff recommends that the Commission approve the application with the condition that PGE hold other customers harmless. Whenever PGE seeks to change rates, or makes a filing with the Commission such as an earnings review, PGE should impute revenue to offset the revenue reductions caused by this transaction.

Alternatives

Alternatively, the Commission could approve the application but require PGE to demonstrate that customers are not harmed by the revenue requirement effects, assuming with and without approval of this lease, in its upcoming rate case. The effect of this proposal would be for PGE to bear the reduction in revenues until such time new rates go into effect, and require PGE to demonstrate that having other customers absorb the Siltronic revenue shortfall does not harm the remaining customers in its next general rate case. Staff estimates that this time period would be roughly 15 months assuming PGE files a general rate case later this year. Staff feels this recommendation

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is inferior to its primary recommendation because it allows a transaction filed under (ORS 757.480) to be approved without ensuring other customers besides Siltronic are not harmed, coincident with the approval action.

Another alternative is for the Commission to deny the application because without Staff's conditions, customers are expected to be harmed.

PROPOSED COMMISSION MOTION:

The requested property sale be approved with Staff's recommended conditions.