

**PUBLIC UTILITY COMMISSION OF OREGON  
STAFF REPORT  
PUBLIC MEETING DATE: March 20, 2008**

REGULAR   X   CONSENT        EFFECTIVE DATE \_\_\_\_\_

**DATE:** March 18, 2008

**TO:** Public Utility Commission

**FROM:** Marc Hellman

**THROUGH:** Lee Sparling

**SUBJECT:** PORTLAND GENERAL ELECTRIC: (Docket No. UM 926) Request for order to sign Proposed Bonneville Power Administration Interim Relief and Standstill Agreement.

**STAFF RECOMMENDATION:**

I recommend that the Commission issue an order directing PGE to execute, no later than March 24, 2008, the proposed Bonneville Power Administration Interim Relief and Standstill Agreement.

**DISCUSSION:**

On March 14, 2008, Portland General Electric (PGE) filed with the Public Utility Commission of Oregon (OPUC) the Bonneville Power Administration (BPA) proposed Interim Relief and Standstill Agreement. In correspondence from BPA to PGE, BPA states that the interim relief offer remains in effect through March 24, 2008. Should PGE not execute the agreement prior to March 25, 2008, then the agreement is no longer valid or in force.

The agreement calls for the resumption of residential exchange benefits. The Commission approved tariffs with a zero Regional Power Act credit for PGE for service on and after June 1, 2007. The 9<sup>th</sup> Circuit had ruled in May of 2007 that the Settlement Agreements entered into by BPA and each of the investor-owned utilities were contrary to federal law.

The Interim Agreement calls for benefits of \$43.2 million for 2008. However, as by its name, the monies are interim in nature and not a permanent level of benefits. BPA is currently holding formal proceedings to determine the appropriate level of residential exchange benefits on a going forward basis, as well as determining the level of benefits

paid to PGE since 2002 as well as how much residential exchange benefits PGE was entitled to under the construct of the Regional Power Act for 2002 to 2008. BPA intends to undertake retroactive ratemaking to reconcile past benefits paid with benefits BPA determines PGE is entitled to under a properly administered residential exchange program. Therefore any benefits paid under the Interim Agreement will be trued-up to BPA's final determinations. As PGE notes, BPA's preliminary estimates call for PGE to receive residential exchange benefits of \$51.6 million. This value is greater than the interim level offered by BPA.

BPA did offer the public the opportunity to comment on the draft templates of the interim agreements. The OPUC submitted comments in early January 2008, and they are attached to this memo. In those comments, the OPUC suggested deleting a paragraph (10d) in the BPA template drafted for the investor-owned utilities. The Interim Agreement offered by BPA to PGE adopted the OPUC's recommendation and deleted the text identified.

PGE does request that the first use of the interim funds be for paying for the Regional Power Act (RPA) balancing account for which customers owe PGE \$8.7 million. This is a reasonable request and staff supports this action.

The current PGE filing does not include requests for revised tariffs. Assuming the Commission directs PGE to execute the Interim Agreement, and assuming the interim agreements go forward, PGE anticipates filing rates to be effective on and after April 15, 2008. For an average customer consuming 900 kWh a month, the rate reduction in percentage and dollar terms is -7.7% and -\$7.18, respectively.

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

I recommend that the Commission issue an order directing PGE to execute, no later than March 24, 2008, the proposed Bonneville Power Administration Interim Relief and Standstill Agreement.

PGE Interim Agreement

Attachment

January 3, 2008

Bonneville Power Administration  
Public Affairs Office – DKC - 7  
PO Box 14428  
Portland, Oregon 97293-4428

RE: **Interim Agreements**

Thank you for the opportunity to comment on the draft interim agreements for residential exchange benefits. While we support restarting exchange benefits during the high-cost heating season, we believe the level of interim benefits offered to the residential and small farm customers of the region's investor-owned utilities is far too low. Notwithstanding that, we offer two technical comments on the draft agreements.

The first comment focuses on Paragraph 10 (d). This paragraph apparently allows a utility to receive BPA interim residential exchange benefits, but not flow through such benefits to customers, if the utility perceives any regulatory risk of not recovering from customers the BPA-determined True-up Payment Amount. We do not support this provision and recommend it be deleted in its entirety. We believe this provision may conflict with the requirements of the Regional Power Act that residential exchange benefits be passed through to qualifying customers. Furthermore, this provision conflicts with our statutory authority in that it authorizes a utility to require a Commission prejudice its decision regarding any True-up Payment before the utility passes interim residential exchange benefits to its customers. From communications with the Washington Utilities and Transportation Commission, we understand a number of IOUs have stated they would not oppose deleting Paragraph 10(d).

The second comment is specific to PacifiCorp and the allocation of interim residential exchange benefits across the states that PacifiCorp serves. Given BPA's decision to move back to a traditional residential exchange construct, we support an allocation of benefits that most closely matches that provided for in the Power Act. Until state specific ASCs are determined, we support a state-by-state allocation for PacifiCorp based on relative shares of state qualifying load. We do not support using the allocation method prior to when benefits were suspended. Such a method would be in conflict with recent 9<sup>th</sup> Circuit court decisions and be inconsistent with the Regional Power Act directives.

Thank you for considering our comments.



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Lee Beyer, *Chairman*



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Ray Baum, *Commissioner*



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John Savage, *Commissioner*